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TITLE 5—ADMINISTRATIVE PERSONNEL

Chapter I—Civil Service Commission

PART 24—FORMAL EDUCATION REQUIREMENTS FOR APPOINTMENT TO CERTAIN SCIENTIFIC, TECHNICAL, AND PROFESSIONAL POSITIONS

SOIL SCIENTIST

Subparagraph (1) (i) and (ii) of § 24.87 (a) is amended as set out below.

§ 24.87 *Soil Scientist, GS-470-5-15—* (a) *Educational requirement.* (1) Applicants must have successfully completed one of the following:

(i) A full 4-year course of study in an accredited college or university leading to a bachelor's or higher degree with major study in soil science or a closely related subject-matter field. This course of study must have included at least 10 semester hours of course-work in soil science.

(ii) A total of at least 30 semester hours of course-work in plant science, soil science and closely related subject-matter fields of agriculture with major study in soil science or a closely related subject-matter field, including at least 10 semester hours in soil science, plus enough additional experience, or education of an appropriate nature to total 4 years of experience and education or 4 years of education. The quality of this additional experience or education must have been such that, when combined with the required 30 semester hours in plant science, soil science or a closely related subject-matter field of agriculture, it gives the applicant a technical knowledge comparable to that normally acquired through the successful completion of the full 4-year course of study described in subdivision (i) of this subparagraph.

(Sec. 11, 58 Stat. 390; 5 U. S. C. 800)

UNITED STATES CIVIL SERVICE COMMISSION,

[SEAL] WM. C. HULL,
Executive Assistant.

[F. R. Doc. 56-6304; Filed, Aug. 3, 1956; 8:53 a. m.]

TITLE 6—AGRICULTURAL CREDIT

Chapter IV—Commodity Stabilization Service and Commodity Credit Corporation, Department of Agriculture

Subchapter B—Loans, Purchases, and Other Operations

[1956 C. C. C. Grain Price Support Bulletin 1, Supp. 1, Rice]

PART 421—GRAINS AND RELATED COMMODITIES

SUBPART—1956-CROP RICE LOAN AND PURCHASE AGREEMENT PROGRAM

A price support program has been announced for the 1956 crop of rice. The 1956 C. C. C. Grain Price Support Bulletin 1 (21 F. R. 3997) issued by the Commodity Credit Corporation and containing the regulations of a general nature with respect to price support operations for certain grains and other commodities produced in 1956, is supplemented as follows:

Sec.	
421.1936	Purpose.
421.1937	Availability of price support.
421.1938	Eligible rice.
421.1939	Bagged and bulk rice.
421.1940	Warehouse receipts.
421.1941	Determination of quantity.
421.1942	Determination of quality.
421.1943	Maturity of loans.
421.1944	Support rates.
421.1945	Warehouse charges.
421.1946	Settlement.

AUTHORITY: §§ 421.1936 to 421.1946 issued under sec. 4, 62 Stat. 1070 as amended; 15 U. S. C. 714b. Interpret or apply sec. 5, 62 Stat. 1072, secs. 101, 401, 63 Stat. 1051, 1054; 15 U. S. C. 714c, 7 U. S. C. 1421, 1441.

§ 421.1936 *Purpose.* Sections 421.1936 to 421.1946 state additional specific requirements which, together with the general requirements contained in the 1956 C. C. C. Grain Price Support Bulletin 1 (21 F. R. 3997) comprise the regulations governing loans and purchase agreements under the 1956-crop Rice Price Support Program.

§ 421.1937 *Availability of price support—*(a) *Method of support.* Price support will be made available through

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farm-storage and warehouse-storage loans and through purchase agreements.

(b) *Area.* Farm-storage and warehouse-storage loans and purchase agreements will be available to eligible producers on eligible rice produced in the States of Arizona, Arkansas, California, Florida, Illinois, Louisiana, Mississippi, Missouri, North Carolina, Oklahoma, South Carolina, Tennessee and Texas.

(c) *Where to apply.* Application for rice price support must be made at the office of the county committee which keeps the farm program records for the farm. In the case of eligible cooperative marketing associations of producers, application for price support shall be made in the county where the main office of the cooperative marketing association of producers is located or in such other county as the State Committee determines the application can be more expeditiously handled.

(d) *When to apply.* Loans and purchase agreements will be available from time of harvest through January 31, 1957, and the applicable documents must be signed by the producer and delivered to the county committee not later than such date. Applicable documents include the Producer's Note and Loan Agreement for warehouse-storage loans, the Producer's Note and Supplemental Loan Agreement and the Commodity Chattel Mortgage for farm-storage loans and the Purchase Agreement for purchase agreements.

(e) *Eligible producer.* An eligible producer shall be any individual, partnership, association, corporation, or other legal entity producing rice in 1956 as landowner, landlord, tenant, or sharecropper, including a person owning and operating his own farm, a tenant operating a farm renter for cash, a tenant operating a farm under a crop-share lease, contract, or agreement, a landlord leasing to share tenants, and an irrigation company furnishing water for a share of the crop: *Provided*, That a producer shall not be an eligible producer unless he satisfies the compliance requirements of the regulations pertaining to acreage allotments for the 1956 crop as provided in 1956 C. C. C. Rice Bulletin A and any amendments thereto.

(f) *Cooperative associations.* A cooperative marketing association of producers which satisfies the following conditions shall be deemed an eligible producer and shall be eligible for ware-

house-storage loans and purchase agreements:

(1) The terms and conditions under which producer members' rice is marketed through the association must be set out in a uniform marketing agreement and must be applicable to all rice delivered to the association by producer members.

(2) The major part of the rice marketed by the association must be produced by members who are eligible producers.

(3) The members must share proportionately in the proceeds from marketings according to the quantity and quality of rice each delivers to the association. This provision shall not be construed to prohibit the association from establishing separate pools.

(4) The association must have authority to obtain a loan on the security of the rice and to give a lien thereon as well as authority to sell such rice.

(5) The association must maintain a record by varieties, grade and milling yields of the total quantity of rough rice acquired by or delivered to the association from all sources and must maintain a separate record of all such rice which is ineligible for price support. The association must keep in inventory at all times a quantity of rough rice of the varieties, average grade and milling yield equal to its outstanding warehouse receipts for commingled rice, plus a quantity of rough rice of the varieties, average grade and milling yield equal to the quantity of rice represented by outstanding warehouse receipts (including receipts held by CCC) for rice stored modified commingled and identity preserved. Rice stored modified commingled or identity preserved must be stored separately by lot and so kept in storage so long as receipts for such rice are outstanding.

(6) Not later than December 1, 1956, the association must have set aside in segregated storage, quantities of rough rice by varieties, grade and milling yield, equivalent to the quantities by varieties, grade and milling yield of rough rice which does not meet the eligibility requirements of § 421.1938, hereinafter referred to as "ineligible" rough rice (except rough rice in inventory on July 31, 1956, and rough rice received from CCC and placed in inventory subsequent to July 31, 1956) received by the association from all sources up to such date. All ineligible rough rice received by the association on or after the date of such segregation must also be set aside in segregated storage together with other rough rice required to be set aside in segregated storage. The association must keep a detailed record of the disposition made of the rough rice required to be so set aside. In addition, all rough rice in inventory on July 31, 1956, and all rough rice received from CCC and placed in inventory subsequent to July 31, 1956, must be physically segregated in storage from other rice and a separate record kept of the disposition of such rice. Price support may be obtained only on that rough rice not required to be segregated in storage by this paragraph. The association shall not be entitled to obtain price support until such ineligible

rice has been segregated in accordance with this paragraph.

(7) In making settlement with producer members the association shall make settlement with respect to the ineligible rice separately from the settlement made on eligible rice in accordance with the quantity and quality and sales proceeds from each.

(8) Rough rice held by the association must be made available for inspection by CCC at all reasonable times so long as the association has rice under price support and the books and records of the association must be made available to CCC for inspection at all reasonable times through May 1, 1962.

§ 421.1938 *Eligible rice.* To be eligible for price support, rice must meet the following requirements:

(a) The rice must have been produced in 1956 by an eligible producer on a farm on which the rice acreage allotment was not exceeded in the States of Arizona, Arkansas, California, Florida, Illinois, Louisiana, Mississippi, Missouri, North Carolina, Oklahoma, South Carolina, Tennessee, or Texas.

(b) The beneficial interest in the rice must be in the eligible producer tendering the rice for loan or for purchase under a purchase agreement and must always have been in him, or must have been in him and a former producer whom he succeeded before the rice was harvested. In the case of cooperative marketing associations, the beneficial interest in the rice must have been in the producer members who delivered the rice to the association and must always have been in them or in them and former producers whom they succeeded before the rice was harvested.

(c) The rice must be of one of the classes within the Official Standards of the United States for Rough Rice other than "mixed rough rice."

(d) The rice, at the time it is placed under loan or purchased under a purchase agreement, must (1) grade U. S. No. 5 or better (rice of special grades shall not be eligible rice); (2) contain not more than 14 percent moisture; and (3) must not contain mercurial compounds or other substances poisonous to man or animals.

(e) If offered as security for a farm-storage loan, the rice must have been stored in the granary at least 30 days prior to its inspection for measurement, sampling, and sealing, unless otherwise approved by the ASC State Committee.

§ 421.1939 *Bagged and bulk rice.* Rice may be either in bags or in bulk when a loan is obtained or when rice is purchased under a purchase agreement.

(a) *Farm storage.* (1) Loans on farm-stored rice will be made on a bagged or bulk basis in accordance with the manner in which the rice is stored.

(2) Settlement with respect to farm-stored rice acquired by CCC in bulk under loan or purchase agreement shall be on the basis of the net weight of the bulk rice acquired by CCC.

(3) Settlement with respect to farm-stored rice acquired by CCC in bags under loan or purchase agreement shall be on the basis of the combined weight of the rice and bags acquired by CCC, and

title to the bags shall pass with the rice. CCC shall not otherwise pay any amounts representing the value of the bags.

(b) *Approved warehouse storage.* (1) In the case of rice in approved warehouse storage, loans will be made and rice under purchase agreements will be acquired on a bagged or bulk basis in accordance with the manner in which the rice is to be loaded out by the warehouseman as indicated on the warehouse receipt. Therefore, if a loan is made on the basis of loading out the rice in bags, the rice must be in bags at the time of load out by the warehouseman and, if a loan is made on the basis of loading out the rice in bulk, the rice must be in bulk at the time of load out by the warehouseman.

(2) Settlement with respect to rice in approved warehouse storage which the warehouseman is required to load out in bulk shall be on the basis of the net weight of bulk rice acquired by CCC under loan or purchase agreements.

(3) Settlement with respect to rice in approved warehouse storage acquired by CCC under loans or purchase agreements which the warehouseman is required to load out in bags shall be on the basis of the combined weight of the rice and bags, and title to the bags shall pass with the rice, except that, if the rice is not in bags at the time of acquisition by CCC title to the bags shall pass to CCC at the time of load out. CCC shall not otherwise pay any amounts representing the value of the bags. In the event any person should successfully dispute the passing of title to the bags, the producer shall indemnify CCC for any loss sustained by reason thereof.

§ 421.1940 *Warehouse receipts.* Warehouse receipts representing rice in approved warehouse storage to be placed under loan or to be delivered to CCC under a purchase agreement, must meet the requirements of this section.

(a) Warehouse receipts must be issued in the name of the producer, or cooperative marketing association, must be properly endorsed in blank so as to vest title in any holder, and must be issued by a warehouse approved under the Uniform Rice Storage Agreement (CCC Form 26). The receipts must be negotiable, must cover eligible rice actually in store in the warehouse and must clearly indicate whether the rice is stored in bulk or in bags (sacks), and whether the rice is to be delivered in bulk or in bags (sacks). Under the Uniform Rice Storage Agreement, the warehouseman guarantees the quantity and quality of the rice unless the warehouse receipts or accompanying supplemental certificates state that the rice is stored "identity-preserved" or "modified commingled." In the case of rice stored identity-preserved, the warehouseman is not a guarantor but is required to load out the identical rice on which the warehouse receipt was issued. In the case of bulk rice stored modified commingled, the warehouseman guarantees quantity but not quality and the rice of two or more owners is stored together in one lot, the identity of which the warehouseman is required to maintain.

(b) In order to be acceptable as security for a warehouse-storage loan, each warehouse receipt, or the accompanying supplemental certificate, must contain a statement that the rice is insured in accordance with CCC Form 26, "Uniform Rice Storage Agreement," and if such insurance was not effective as of the date of deposit of the rice in the warehouse, the warehouseman must certify as to the effective date of the insurance and that the rice is in the warehouse and undamaged. The insurance on rice with respect to which the warehouseman guarantees quality and quantity (hereinafter called commingled rice) must be obtained by the warehouseman. Insurance on modified commingled rice must be obtained by the warehouseman. Insurance on identity-preserved rice must be obtained by either the producer or the warehouseman. If the insurance on identity-preserved rice is obtained by the producer, it must be assigned to the warehouseman, with the consent of the insurance company, before a loan will be made and the warehouseman must also certify that the insurance has been assigned to him with the consent of the insurance company. Insurance is not required in order for rice represented by warehouse receipts to be purchased under the purchase agreement program.

(c) A supplemental certificate will be required to be executed in duplicate when all of the following information is not contained in the warehouse receipt or inspection certificate: Variety, grade, grade factors, milling yield, moisture, gross and net weight, method of storage, manner in which the rice will be delivered (bulk or bagged), and manner by which the rice was received. When required, the supplemental certificate (completed for all items) shall be executed by the warehouseman for commingled rice, by the warehouseman and producer for modified commingled rice and by the producer for identity-preserved rice.

(d) When the warehouse receipt represents identity-preserved rice, the producer's responsibility will be the same as stated in § 421.1615 of the 1956 C. C. C. Grain Price Support Bulletin 1 for farm-stored rice. The producer's responsibility for modified commingled rice shall be the same as stated in § 421.1615 of 1956 C. C. C. Grain Price Support Bulletin 1 for farm-stored rice except that he shall not be responsible for the quantity.

(e) A separate warehouse receipt must be submitted for each class or variety, grade, and milling yield of rice.

(f) Warehouse receipts must carry an endorsement by the warehouseman in substantially the following form:

Warehouse charges through (insert the applicable maturity date for loans for the State where stored), including, but not limited to, receiving and loading out charges accrued or to accrue, and all other charges incident to the acquisition of the rice by CCC, on the rice represented by this warehouse receipt have been paid or otherwise provided for and a lien for such charges will not be claimed by the warehouseman from CCC or any subsequent holder of the warehouse receipt. If the rice represented by this warehouse receipt is to be loaded out in bags (sacks), the warehouseman agrees that

any and all right, title, and interest which he has in such bags (sacks) shall pass with the rice when such rice is acquired under the price support program or shall pass at the time the rice is loaded out, if the rice is not in bags at the time of acquisition by CCC.

(g) The warehouse receipt shall not contain any statement indicating that the quantity is subject to a shrinkage factor.

§ 421.1941 *Determination of quantity.* (a) Loans and purchase agreements shall be made on the basis of rough rice expressed in units of 100 pounds, and fractional units of less than 100 pounds shall be disregarded except in the case of loans made on the basis of commingled warehouse receipts the exact weight shown on the warehouse receipt shall be used. The quantity of rice placed under farm-storage loan may be determined either by weight or by measurement. The quantity of rice placed under a warehouse-storage loan shall be determined on the basis of weight. Determination of the quantity of rice delivered under a farm-storage loan, or for making settlement on an identity-preserved warehouse-storage loan or under a purchase agreement shall be on the basis of weight.

(b) In determining the quantity of bagged rice by weight, the gross weight, including bags, shall be used. When necessary to convert bagged rice to a bulk basis or bulk rice to a bagged basis, an adjustment of $\frac{3}{4}$ pound for 100 pounds of gross weight shall be made as allowance for the weight of the bag.

(c) When the quantity of rice is determined by measurement, a cubic foot of rice testing 45 pounds per bushel, shall be 36 pounds. The quantity determined will be the following percentages of 36 pounds:

For rice testing:	Percent
45 pounds or over.....	100
44 pounds or over, but less than 45 pounds.....	98
43 pounds or over, but less than 44 pounds.....	96
42 pounds or over, but less than 43 pounds.....	93
41 pounds or over, but less than 42 pounds.....	91
40 pounds or over, but less than 41 pounds.....	89

Proportionately lower for rice testing below 40 pounds.

(d) In the case of commingled rice, loans will be made and settlement with the producer will be made on 100 percent of the quantity of rice determined in accordance with this section, based on the quantity shown on the warehouse receipt or the supplemental certificate. In all other cases, loans will be made on 95 percent of the quantity of rice determined in accordance with this section, and the determination of quantity for settlement purposes will be made on the basis of the actual quantity acquired by CCC, except that in the case of bulk rice stored modified commingled, settlement with the producer will be made on the basis of 100 percent of the quantity shown on the warehouse receipt or the supplemental certificate.

(e) In the case of rice under purchase agreement, the producer shall, at the

time he notifies the County Committee of his intention to sell rice to CCC, specify the quantity of each class or variety of rice included in the total quantity to be sold.

§ 421.1942 Determination of quality.

(a) The class, grade, grade factors, milling yield and all quality factors for price support purposes shall be determined in accordance with the methods set forth in the Official United States Standards for Rough Rice.

(b) In the case of commingled rice, loans will be made and settlement with the producer, either on loans or purchase agreements, will be on the basis of the quality shown on the warehouse receipt or supplemental certificate. In all other cases, loans will be made on the basis of quality shown on the official (Federal or Federal-State) sample inspection certificate, based on a representative sample drawn by the County Committee for each lot of rice at the time application is made for the loan, and settlement with the producer, both with respect to loans and purchase agreements, will be on the basis of quality determined by a Federal or Federal-State lot inspection certificate dated not earlier than 30 days prior to the applicable maturity date for loans, and submitted by the producer in accordance with the settlement provisions of this bulletin. Sample inspection fees incurred by the county committee in connection with the

making of loans will be for the account of CCC. Lot inspection fees incurred in connection with the acquisition of rice by CCC will be for the account of the producer.

§ 421.1943 Maturity of loans. Unless demand is made earlier, loans on rice stored in California and Arizona will mature on April 30, 1957 and loans on rice stored in other States will mature on March 18, 1957.

§ 421.1944 Support rates. Loans and purchases under purchase agreement will be made at the support rates set forth in this section.

(a) Basic rates. The basic support rate per 100 pounds of rough rice in approved storage and with all accrued charges paid through the applicable maturity date for loans, including all receiving and loading out charges, accrued or to accrue, shall be computed as follows: Multiply the yield (in pounds per hundredweight) of head rice by the applicable value factor for head rice (as shown in the table below according to class or variety). Similarly, multiply the difference between the total yield and head rice yield (in pounds per hundredweight) by the applicable value factor for broken rice. Add the results of these two computations to obtain the basic loan or purchase rate per 100 pounds of rough rice and express such rate in dollars and cents, rounded to the nearest whole cent.

VALUE FACTORS FOR HEAD AND BROKEN RICE

Group	Rough rice class or variety	Head rice	Broken rice
I.....	Patna (except the variety Century Patna), and Rexore (except the variety Rexark).....	\$0.0906	\$0.035
II.....	Blue Bonnet, Nira and Rexark.....	.0918	.035
III.....	Century Patna, Fortuna, R. N., and Edith.....	.0952	.035
IV.....	Blue Rose (including the varieties Improved Blue Rose, Greater Blue Rose, Kamrose and Arkrose), Magnolia, Zenith, Prelude and Lady Wright.....	.0730	.035
V.....	Pearl, Calrose, Early Prolific, Calady, and other varieties.....	.0677	.035

(b) Premiums and discounts. The basic support rates, determined under paragraph (a) of this section, per 100 pounds of rough rice shall be adjusted by the following premium or discount for the grade applicable to an individual lot of rough rice:

- Grade U. S. No. 1: Premium of 20 cents per 100 pounds.
- Grade U. S. No. 2: Premium of 10 cents per 100 pounds.
- Grade U. S. No. 3: Discount of 5 cents per 100 pounds.
- Grade U. S. No. 4: Discount of 20 cents per 100 pounds.
- Grade U. S. No. 5: Discount of 40 cents per 100 pounds.

(c) Location differentials. For rice produced in the following areas, discounts for location (to adjust for transportation costs of moving the rice to an area where competitive milling facilities are available) shall be applied to the basic support rate determined under paragraph (a) of this section and shall be in addition to any adjustment in accordance with paragraph (b) of this section: *Provided, however*, That such location differentials shall not apply to rice produced in these areas if the rice is transported to a rice producing area where no location differential is applicable and is

there placed under loan or delivered to CCC under a purchase agreement:

Area	Discount per 100 pounds
State of Florida.....	\$0.84
States of South Carolina and North Carolina.....	.80
Counties of Lafayette, Little River and Miller in Arkansas; Bowie in Texas; McCurtain in Oklahoma; and Bossier Parish in Louisiana.....	.37
Imperial County, California and adjacent counties in Arizona and California.....	.99
Counties of Holt, Lincoln, Marion, Pike, and St. Charles in Missouri, and Adams in Illinois.....	.46

§ 421.1945 Warehouse charges. On rice stored in an approved warehouse prior to acquisition by CCC and acquired by CCC in such approved storage, with receiving and loading out charges paid by the producer, CCC will refund to the producer an amount computed at the rate of 8 cents per hundred pounds as compensation for any receiving and loading out charges paid by the producer. Inspection and weighing fees and any special charges assessed by the warehouseman, such as for unloading and repiling required in order to obtain weights or grade samples in connection with ac-

quisition of the rice by CCC from the producer, shall be for the account of the producer.

§ 421.1946 Settlement—(a) Farm storage loans. (1) For settlement on loans on farm-stored rice the producer shall, at his own expense at the time of delivery of the rice, furnish to the county committee official weight certificates and Federal or Federal-State lot inspection certificates dated not earlier than 30 days prior to the applicable maturity date, covering the rice. Settlement on such loans will be made at the applicable support rate for the grade and quality of the quantity of rice as shown by such weight certificates and inspection certificates. However, notwithstanding the foregoing provisions of this subparagraph, if, at the time of delivery to CCC of the rice, the warehouseman, with the agreement of the producer, issues a commingled warehouse receipt covering the rice, inspection and weight certificates will not be required and settlement with the producer will be made at the applicable support rate for the quantity and quality of rice shown on the commingled warehouse receipt.

(2) If the inspection certificate for the rice under farm-storage loan, or, where applicable, the commingled receipt for rice originally covered by a farm-storage loan, shows that the rice is of a grade for which no support rate has been established, the settlement value shall be the support rate established for the grade and milling yield of the rice placed under loan, less the difference, if any, on the date that the inspection and weight certificates, or the commingled receipts, are delivered to the county committee, between the market price for the grade and milling yield placed under loan and the market price of the rice described in the inspection certificate or commingled warehouse receipts, as determined by CCC: *Provided, however*, That if the rice is sold by CCC in order to determine its market price, the settlement value shall not be less than such sales price.

(3) If rice, placed under farm-storage loan in an area where a location differential is in effect, is delivered to CCC by the producer in satisfaction of the loan in a rice producing area where no location differential is applicable, settlement will be made on the basis of the applicable support rate for the area where the rice is delivered.

(b) Identity-preserved warehouse storage loans. (1) For settlement on loans on identity-preserved warehouse stored rice not repaid by maturity, the producer shall, at his own expense and within 10 days after maturity, furnish to the county committee official weight certificates and Federal or Federal-State lot inspection certificates dated not earlier than 30 days prior to the applicable maturity date, covering the rice. Settlement on such loans will be made at the applicable support rate for the grade and quality of the quantity of rice as shown by such weight certificates and inspection certificates. However, notwithstanding the foregoing provisions of this subparagraph, if, at the time of acquisition by CCC of rice covered by an

identity-preserved warehouse-storage loan, the warehouseman, with the agreement of the producer, issues a commingled warehouse receipt covering the rice, inspection and weight certificates will not be required and settlement with the producer will be made at the applicable support rate for the quantity and quality of rice shown on the commingled warehouse receipt. Notwithstanding the foregoing provisions of this subparagraph, if CCC determines that the warehouseman failed to maintain the identity of rice covered by an identity-preserved warehouse-storage loan, the producer will not be required to furnish lot inspection and weight certificates, and settlement with the producer will be made at the applicable support rate for the quantity and quality of rice shown on the warehouse receipt and supporting documents.

(2) If the inspection certificate for the rice under identity-preserved warehouse-storage loan, or, where applicable, the commingled receipt for rice originally stored identity-preserved, shows that the rice is of a grade for which no support rate has been established, the settlement value shall be the support rate established for the grade and milling yield of the rice placed under loan, less the difference, if any, on the date that the inspection and weight certificates, or the commingled receipts, are delivered to the county committee, between the market price for the grade and milling yield placed under loan and the market price of the rice described in the inspection certificate or commingled receipt, as determined by CCC: *Provided, however, That if the rice is sold by CCC in order to determine its market price, the settlement value shall not be less than such sales price.*

(c) *Modified commingled warehouse-storage loans.* (1) For settlement on loans on modified commingled warehouse-stored rice not repaid by maturity, the producer shall at his own expense and within 10 days after maturity, furnish to the County Committee a Federal or Federal-State lot inspection certificate dated not earlier than 30 days prior to the applicable maturity date, covering the lot of rice acquired by CCC which must have been taken from the modified commingled lot against which the warehouse receipt representing the rice under loan was issued. Settlement on such loans shall be made at the applicable support rate for the grade and quality of the rice as shown on the inspection certificate and for the quantity shown on the warehouse receipt. However, notwithstanding the foregoing provisions of this subparagraph, if, at the time of acquisition of the rice by CCC, the warehouseman, with the agreement of the producer, issues a commingled warehouse receipt covering the rice, inspection certificates will not be required and settlement with the producer will be made at the applicable support rate for the quantity and quality of rice shown on the commingled warehouse receipt. Notwithstanding the foregoing provisions of this subparagraph, if CCC determines that the warehouseman failed to maintain the identity of any lot of rice covered by a modified commingled ware-

house-storage loan, the producer will not be required to furnish lot inspection certificates, and settlement with the producer will be made at the applicable support rate for the quantity and quality of rice shown on the warehouse receipt and supporting documents.

(2) If the inspection certificate for the rice under modified commingled warehouse-storage loan, or, where applicable, the commingled warehouse receipt for rice originally stored modified commingled, shows that the rice is of a grade for which no support rate has been established, the settlement value shall be the support rate established for the grade and milling yield of the rice placed under loan, less the difference, if any, on the date that the inspection certificate, or commingled receipt, is delivered to the County Committee, between the market price for the grade and milling yield placed under loan and the market price of the rice described in the inspection certificate or commingled warehouse receipt, as determined by CCC: *Provided, however, That if the rice is sold by CCC in order to determine its market price, the settlement value shall not be less than such sales price.*

(d) *Commingled warehouse-storage loans.* Settlement will be made with the producer at the applicable support rate for the quantity and quality of rice shown on the warehouse receipt and accompanying documents.

(e) *Purchase agreements.* (1) The producer who signs a purchase agreement (Commodity Purchase Form 1) will not be obligated to sell any quantity of the rice to CCC. However, he may sell to CCC any quantity of eligible rice not in excess of the quantity stated in the purchase agreement. If the producer who signs a purchase agreement wishes to sell the rice to CCC, he will have a 30-day period during which he must notify the county committee in writing of his intentions to sell. Such period shall end on the applicable loan maturity date specified in § 421.1943 or such earlier date as may be prescribed by the Executive Vice President, CCC.

(2) In the case of eligible rice stored commingled in an approved warehouse, the producer must, not later than the day following the final date of such 30-day period, or during such period of time thereafter as may be specified by the county committee, submit to the county committee warehouse receipts under which the warehouseman guarantees quality and quantity, for the quantity of rice he elects to sell to CCC. In the case of eligible rice stored in other than approved warehouse storage, or stored identity-preserved or modified commingled in approved warehouse storage, the county committee will, on or after the final date of such 30-day period, issue delivery instructions to the producer. The producer must then complete delivery within a 15-day period immediately following the date the county committee issues delivery instructions, unless the county committee determines that more time is needed for delivery.

(3) The producer may be required to retain rice stored in other than approved warehouse storage for a period of 60

days after the applicable loan maturity date without any cost to CCC. CCC will not assume any loss in quantity or quality of rice covered by a purchase agreement occurring prior to delivery to CCC, except for quality deterioration under the following circumstances. If a producer has properly requested delivery instructions and CCC cannot accept delivery within the 60-day period following the applicable loan maturity date, the producer may notify the county committee at any time after such 60-day period that the rice is going out of condition or is in danger of going out of condition. Such notice must be confirmed in writing. If the county committee determines that the rice is going out of condition or is in danger of going out of condition and that the rice cannot be satisfactorily conditioned by the producer, and delivery cannot be accepted within a reasonable length of time, the county committee shall obtain an inspection and grade and quality determination. When delivery is completed, settlement shall be made on the basis of such grade and quality determination or on the basis of the grade and quality determination made at the time of delivery, whichever is higher, and on the basis of quantity actually delivered.

(4) Eligible rice sold to CCC under a purchase agreement will be purchased at the applicable support rate for the grade and quality of the rice sold. CCC will accept modified commingled warehouse receipts under the purchase agreement program only when the entire quantity of rice in the modified commingled lot against which the warehouse receipt was issued, is delivered to CCC in a single unit. Otherwise, rice so stored must be removed from such storage and, if the producer desires to deliver warehouse receipts to CCC under the sale, new warehouse receipts representing the lot to be sold must be obtained from an approved warehouse. Where the rice sold to CCC is represented by modified commingled warehouse receipts, the producers shall, at their expense, furnish to the County Committee at the time of sale Federal or Federal-State lot inspection certificates covering the entire quantity of rice in the modified commingled lot issued on a single date not earlier than 30 days prior to the applicable maturity date for loans and settlement with the producer will be made at the applicable support rate for the quality of rice shown on such inspection certificates and the quantity of rice shown on the warehouse receipt. Where the rice sold is represented by an identity-preserved warehouse receipt or is physically delivered to CCC, the producer shall, at his expense, furnish to the County Committee at the time of sale official weight certificates and Federal or Federal-State lot inspection certificates dated not earlier than 30 days prior to the applicable maturity date for loans and settlement with the producer will be made at the applicable support rate for the quantity and quality of rice shown on such weight and inspection certificates. Where the rice sold is represented by commingled warehouse receipts, inspection and weight certificates will not be required and settlement with the producer will be made at the applicable

support rate for the quantity and quality of rice shown on the commingled warehouse receipt. When delivery is completed, payment will be made by sight draft drawn on CCC by the county office. The producer shall direct on Commodity Purchase Form 4 to whom payment of the proceeds shall be made.

(f) *Storage payment where CCC is unable to take delivery of rice stored in other than an approved warehouse under loan or purchase agreement.* The producer may be required to retain rice stored in other than an approved warehouse under loan or purchase agreement for a period of 60 days after the applicable maturity date without any cost to CCC. However, if CCC is unable to take delivery of such rice within the 60-day period after maturity, the producer shall be paid a storage payment upon delivery of the rice to CCC: *Provided, however,* That a storage payment shall be paid a producer whose rice is stored in other than an approved warehouse under purchase agreement only if he has properly given notice of his intention to sell the rice to CCC and delivery cannot be accepted within the 60-day period after maturity. The period for earning such storage payment shall begin the day following the expiration of the 60-day period after maturity and extend through the final date of delivery, or the final date for delivery as specified in the delivery instructions issued to the producer by the county office, whichever is earlier. The storage payment shall be computed at the rate of 2½ cents per cwt. for each 30 days or fraction thereof for the eligible rice accepted for delivery by CCC.

(g) *Weight or inspection certificates.* In any instance where the producer fails to furnish to CCC weight or inspection certificates required for settlement on loans, CCC may obtain such certificates. The cost incurred by CCC in obtaining such certificates and any other fees or expenses incurred in connection with settlement on loans shall be for the account of the producer.

Issued this 31st day of July 1956.

(SEAL) EARL M. HUGHES,
Executive Vice President,
Commodity Credit Corporation.

[F. R. Doc. 56-6275; Filed, Aug. 3, 1956;
8:48 a. m.]

TITLE 7—AGRICULTURE

Chapter VIII—Commodity Stabilization Service (Sugar), Department of Agriculture

[Sugar Reg. 814.15, Amdt. 1]

PART 814—ALLOTMENT OF SUGAR QUOTAS

PUERTO RICO, 1956

Basis and purpose. This amendment is issued under section 205 (a) of the Sugar Act of 1948, as amended (hereinafter called the "act"), for the purpose of revising Sugar Regulation 814.15 (20 F. R. 9901; 21 F. R. 105) which allots the 1956 sugar quota for Puerto Rico for consumption in the continental United

States (including raw sugar transferred for further processing and shipment within the direct-consumption portion of such quota) and the 1956 sugar quota for local consumption in Puerto Rico among persons who process Puerto Rican sugarcane into sugar (1) to be brought into the continental United States and (2) to be marketed for local consumption in Puerto Rico.

The sugar quota for Puerto Rico for consumption in the continental United States is referred to herein as "mainland quota" and allotments thereof are referred to as "mainland allotments". The sugar quota for consumption in Puerto Rico and allotments thereof are referred to as "local quota" and "local allotments," respectively.

Revision of Sugar Regulation 814.15 is necessary to substitute in the determination of allotments the final data on processings of sugar from 1955-56-crop

cane, 1955 marketings and January 1, 1956, inventories of sugar.

The allotments established by the initial order were based upon 1954-55 crop processings as estimates of 1955-56 crop processings; 1955 allotments as estimates of 1955 marketings; and January 1, 1955, inventories plus 1954-55 crop processings less 1955 allotments as estimates of January 1, 1956, inventories. To prevent any allottee from marketing sugar in excess of the allotment established therefor on the basis of the final data, marketings were limited to 80 percent of the allotments. Final data on 1955-56 crop processings, 1955 marketings and January 1, 1956, inventories of sugar are now available and are reflected in the following table together with the measures of the three factors, "processings * * * from proportionate shares * * *," "past marketings," and "ability to market":

Processor	Production of sugar from 1955-56-crop sugarcane		Average annual marketings 1951 through 1955		Jan. 1, 1956, stocks plus production from 1955-56-crop sugarcane		1955 Local marketings	
	Short tons, raw value	Percent of total	Short tons, raw value	Percent of total	Short tons, raw value	Percent of total	Short tons, raw value	Percent of allottee's total 1955 marketings
	(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
Antonio Ruiz, Sucesores, S. en C.	48,354	4.198	47,035	4.168	53,046	4.130	21,274	44.620
Asociacion Azucarera Cooperativa	31,933	2.773	33,034	2.928	33,459	2.604		
Central Aguirre Sugar Co., a trust	109,454	9.503	109,704	9.722	118,306	9.212	1,611	1.459
Central Coloso, Inc.	59,690	5.175	56,878	5.041	67,746	5.275	573	.918
Central Eureka, Inc.	39,200	3.404	37,052	3.281	44,866	3.493	628	1.334
Central Guanani, Inc.	12,574	1.092	11,267	.996	13,563	1.056		
Central Igualdad, Inc.	42,938	3.728	43,420	3.848	49,540	3.857	17,464	38.906
Central Juanita, Inc.	43,299	3.759	38,223	3.388	55,353	4.311	2,153	4.995
Central Mercaderia, Inc.	85,357	7.411	75,964	6.732	90,990	7.085	23,705	27.844
Central Monserate, Inc.	25,454	2.210	25,489	2.239	27,586	2.148	100	.382
Central San Francisco	10,565	.917	7,096	.629	12,047	.938	1,875	20.604
Central San Vicente, Inc.	59,419	5.159	60,428	5.355	71,514	5.568	64	.050
Compania Azucarera del Camuy, Inc.	14,171	1.230	14,247	1.263	14,932	1.164		
Compania Azucarera del Ton	29,667	2.576	31,915	2.828	38,051	2.963		
Cooperativa Azucarera Los Canos	39,955	3.446	36,318	3.219	43,803	3.418		
Eastern Sugar Associates, a trust	117,225	10.178	123,022	10.903	129,232	10.063	14,788	11.888
Fajardo Sugar Co.	104,706	9.091	111,858	9.917	123,732	9.634	15	.013
Land Authority of Puerto Rico	70,463	6.039	68,262	6.050	78,605	6.128		
Mario Mercado e Hijos	31,362	2.723	32,078	2.843	34,285	2.670	525	1.592
Mayaguez Sugar Co., Inc.	8,426	.732	9,938	.881	8,701	.678	130	1.409
Plata Sugar Co., Inc.	51,590	4.479	48,236	4.275	58,234	4.534	275	.537
Soller Sugar Co., Inc.	12,840	1.115	12,374	1.097	13,067	1.013		
South Porto Rico Sugar Co. of P. R.	97,437	8.462	94,466	8.372	103,488	8.058	14,776	16.188
Total	1,151,749	100.000	1,128,344	100.000	1,284,276	100.000	99,938	

The record of the public hearing provides for the revision of the order to give effect to final 1955-56 crop production, 1955 marketings and January 1, 1956, carryover data, and the concurrence of each allottee under § 814.15 is included in the transcript or has been received in writing. This agreement was conditioned upon the use of the same allotment formula as was used in the initial order. The revised allotments are based on the same formula used in the initial order. This amendment allots the full amount of both quotas.

Since a number of allottees have already brought in or marketed a large portion of their initial allotments, it is imperative that this amendment become effective at the earliest possible date in order to permit continued orderly marketing of sugar. Accordingly, it is hereby found that compliance with the 30-day effective date requirement of the Administrative Procedure Act (60 Stat.

237) is impracticable and contrary to the public interest and consequently this order shall be effective when published in the FEDERAL REGISTER.

Pursuant to the authority vested in the Secretary of Agriculture by section 205 (a) of the act, paragraphs (a) and (c) (1) of § 814.15 are hereby amended to read as follows:

§ 814.15 *Allotment of 1955 sugar quotas for Puerto Rico—(a) Allotments.* The 1956 sugar quota for Puerto Rico for consumption in the continental United States as established in Part 811 of this chapter (21 F. R. 4653), (including raw sugar to be further processed and marketed within the direct-consumption portion of such quota) and the 1956 sugar quota for local consumption in Puerto Rico established in § 812.15 of this chapter (20 F. R. 9850) are hereby allotted to the following processors in quantities which appear in columns (1) and (2) opposite their respective names:

[Short tons, raw value]

Processor	(1) Mainland allotment	(2) Local allotment
Antonio Ruiz, Sucesores, S. en C.	27,728	21,608
Asociación Azucarera Cooperativa	32,509	
Central Aguirre Sugar Co., a trust	110,110	1,600
Central Coloso, Inc.	60,597	551
Central Eureka, Inc.	39,632	606
Central Guadalupe, Inc.	12,683	
Central Inland, Inc.	27,468	15,971
Central Jumbilla, Inc.	43,001	2,217
Central Mercedes, Inc.	62,408	25,472
Central Monserate, Inc.	25,887	97
Central San Francisco	8,397	2,129
Central San Vicente, Inc.	62,013	55
Compañía Azucarera del Camuy, Inc.	14,396	
Compañía Azucarera del Toa	31,612	
Cooperativa Azucarera Los Canos	40,332	
Eastern Sugar Associates, a trust	106,606	14,084
Fajardo Sugar Co.	169,514	14
Land Authority of Puerto Rico	76,440	
Mario Mercado e Hijos	31,642	501
Mayaguez Sugar Co., Inc.	8,595	120
Plata Sugar Co.	52,468	278
Soller Sugar Co.	12,897	
South Porto Rico Sugar Co. of P. R.	83,093	15,897
Total	1,080,000	100,000

(c) *Restrictions on marketing.* (1) During the calendar year 1956 each processor named in paragraph (a) of this section, together with the producers with whom it shares its allotments under paragraph (b) of this section and all other persons are hereby prohibited from bringing into the continental United States for consumption therein, or marketing to a local refiner or any other person for that purpose, and from marketing for local consumption in Puerto Rico, any sugar in excess of the applicable quantities established in columns (1) and (2) of the table in paragraph (a) of this section.

(Sec. 403, 61 Stat. 932; 7 U. S. C. 1153. Interpretations or applies sec. 205, 61 Stat. 926; 7 U. S. C. 1115)

Done at Washington, D. C., this 1st day of August 1956. Witness my hand and seal of the Department of Agriculture.

[SEAL] TRUE D. MORSE,
Acting Secretary of Agriculture.

[P. R. Doc. 56-6274; Filed, Aug. 3, 1956; 8:48 a. m.]

Chapter IX—Agricultural Marketing Service (Marketing Agreements and Orders), Department of Agriculture

[Valencia Orange Reg. 80]

PART 922—VALENCIA ORANGES GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA

LIMITATION OF HANDLING

§ 922.380 *Valencia Orange Regulation 80—(a) Findings.* (1) Pursuant to the marketing agreement and Order No. 22, as amended (7 CFR Part 922; 21 F. R. 4392), regulating the handling of Valencia oranges grown in Arizona and designated part of California, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.; 68 Stat. 906, 1047), and upon the basis of the recommendations and information submitted by the Valencia Orange Administrative Committee, established under the said order, and upon

other available information, it is hereby found that the limitation of handling of such Valencia oranges, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule making procedure, and postpone the effective date of this section until 30 days after publication thereof in the FEDERAL REGISTER (60 Stat. 237; 5 U. S. C. 1001 et seq.) because the time intervening between the date when information upon which this section is based became available and the time when this section must become effective in order to effectuate the declared policy of the act is insufficient, and a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective as hereinafter set forth. The Valencia Orange Administrative Committee held an open meeting on August 2, 1956, after giving due notice thereof, to consider supply and market conditions for Valencia oranges and the need for regulation; interested persons were afforded an opportunity to submit information and views at this meeting; the recommendation and supporting information for regulation during the period specified herein was promptly submitted to the Department after such meeting was held; the provisions of this section, including its effective time, are identical with the aforesaid recommendation of the committee, and information concerning such provisions and effective time has been disseminated among handlers of such Valencia oranges; it is necessary, in order to effectuate the declared policy of the act, to make this section effective during the period herein specified; and compliance with this section will not require any special preparation on the part of persons subject thereto which cannot be completed on or before the effective date hereof.

(b) *Order.* (1) The quantity of Valencia oranges grown in Arizona and designated part of California which may be handled during the period beginning at 12:01 a. m., P. S. T., August 5, 1956, and ending at 12:01 a. m., P. S. T., August 12, 1956, is hereby fixed as follows:

- (i) District 1: Unlimited movement;
- (ii) District 2: 785,400 cartons;
- (iii) District 3: Unlimited movement.

(2) All Valencia oranges handled during the period specified in this section are subject also to all applicable size restrictions which are in effect pursuant to this part during such period.

(3) As used in this section, "handler," "District 1," "District 2," "District 3," and "carton" have the same meaning as when used in said marketing agreement and order, as amended.

(Sec. 5, 49 Stat. 753, as amended; 7 U. S. C. 608c)

Dated: August 3, 1956.

[SEAL] S. R. SMITH,
Director, Fruit and Vegetable
Division, Agricultural Mar-
keting Service.

[P. R. Doc. 56-6383; Filed, Aug. 3, 1956; 11:37 a. m.]

PART 940—PEACHES GROWN IN THE COUNTY OF MESA, COLO.

DETERMINATION RELATIVE TO EXPENSES AND FIXING OF RATE OF ASSESSMENT FOR 1956-57 FISCAL YEAR

Pursuant to the marketing agreement, as amended, and Order No. 40, as amended (7 CFR Part 940), regulating the handling of peaches grown in the County of Mesa in the State of Colorado, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.), and upon the basis of the proposals submitted by the Administrative Committee (established pursuant to said amended marketing agreement and order), it is hereby found and determined that:

§ 940.208 *Expenses and rate of assessment for the 1956-57 fiscal year—(a) Expenses.* Expenses that are reasonable and likely to be incurred by the Administrative Committee, established pursuant to the provisions of the amended marketing agreement and order (§§ 940.1 to 940.95), for the maintenance and functioning of such committee, in accordance with the provisions thereof, during the fiscal year beginning March 1, 1956, and ending February 28, 1957, will amount to \$13,000.00.

(b) *Rate of assessment.* The rate of assessment, which each handler who first handles peaches shall pay as his pro rata share of the aforesaid expenses in accordance with the applicable provisions of said amended marketing agreement and order, is hereby fixed at \$0.012 per bushel basket of peaches, or its equivalent of peaches in other containers or in bulk, shipped by such handler during said fiscal year.

It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective time hereof until 30 days after publication in the FEDERAL REGISTER (60 Stat. 237; 5 U. S. C. 1001 et seq.) in that (1) said Administrative Committee at a meeting held on June 28, 1956, proposed an itemized budget of expenses and a rate of assessment based upon information then available as to production of peaches during the 1956 season and anticipated expenses; (2) necessary supplemental information supporting the proposed budget and rate of assessment was not made available to the Department until July 23, 1956; (3) shipments of the current crop of peaches from Mesa County, Colorado, are expected to begin on or about August 1, 1956; (4) the rate of assessment is, in accordance with the amended marketing agreement and order, applicable to all fresh peaches shipped during the 1956-57 fiscal year; and (5) it is essential that the specification of the assessment be issued immediately so that the aforesaid assessments may be collected, and thereby enable said Administrative Committee to perform its duties and functions in accordance with said amended marketing agreement and order.

As used herein, the terms "handler," "ship," "peaches," and "fiscal year"

shall have the same meaning as when used in said amended marketing agreement and order.

(Sec. 5, 49 Stat. 753, as amended; 7 U. S. C. 608c)

Issued this 1st day of August 1956, to become effective on the date of publication hereof in the FEDERAL REGISTER.

[SEAL]

ROY W. LENNARTSON,
Deputy Administrator.

[F. R. Doc. 56-6269; Filed, Aug. 3, 1956; 8:48 a. m.]

[Lemon Reg. 653]

PART 953—LEMONS GROWN IN CALIFORNIA
AND ARIZONA

LIMITATION OF SHIPMENTS

§ 953.760 *Lemon Regulation 653*—(a) *Findings.* (1) Pursuant to the marketing agreement, as amended, and Order No. 53, as amended (7 CFR Part 953; 20 F. R. 8451; 21 F. R. 4393), regulating the handling of lemons grown in the State of California or in the State of Arizona, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.; 68 Stat. 906, 1047), and upon the basis of the recommendation and information submitted by the Lemon Administrative Committee, established under the said amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of the quantity of such lemons which may be handled, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule making procedure, and postpone the effective date of this section until 30 days after publication thereof in the FEDERAL REGISTER (60 Stat. 237; 5 U. S. C. 1001 et seq.) because the time intervening between the date when information upon which this section is based became available and the time when this section must become effective in order to effectuate the declared policy of the act is insufficient, and a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective as herein-after set forth. Shipments of lemons, grown in the State of California or in the State of Arizona, are currently subject to regulation pursuant to said amended marketing agreement and order; the recommendation and supporting information for regulation during the period specified herein was promptly submitted to the Department after an open meeting of the Lemon Administrative Committee on August 1, 1956, such meeting was held, after giving due notice thereof to consider recommendations for regulation, and interested persons were afforded an opportunity to submit their

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views at this meeting; the provisions of this section, including its effective time, are identical with the aforesaid recommendation of the committee, and information concerning such provisions and effective time has been disseminated among handlers of such lemons; it is necessary, in order to effectuate the declared policy of the act, to make this section effective during the period herein-after specified; and compliance with this section will not require any special preparation on the part of persons subject thereto which cannot be completed by the effective time thereof.

(b) *Order.* (1) The quantity of lemons grown in the State of California or in the State of Arizona which may be handled during the period beginning at 12:01 a. m., P. s. t., August 5, 1956, and ending at 12:01 a. m., P. s. t., August 12, 1956, is hereby fixed as follows:

- (i) District 1: Unlimited movement;
 - (ii) District 2: 279,000 cartons;
 - (iii) District 3: Unlimited movement.
- (2) As used in this section, "handled," "District 1," "District 2," "District 3," and "carton" have the same meaning as when used in the said amended marketing agreement and order.

(Sec. 5, 49 Stat. 753, as amended; 7 U. S. C. 608c)

Dated: August 2, 1956.

[SEAL]

S. R. SMITH,
Director, Fruit and Vegetable
Division, Agricultural Mar-
keting Service.

[F. R. Doc. 56-6325; Filed, Aug. 3, 1956; 8:55 a. m.]

[Lime Order 3, Amdt. 1]

PART 1001—LIMES GROWN IN FLORIDA

QUALITY AND SIZE REGULATION

Findings. (1) Pursuant to the marketing agreement and Order No. 101 (7 CFR Part 1001; 20 F. R. 4179) regulating the handling of limes grown in Florida, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq., 68 Stat. 906, 1047), and upon the basis of the recommendations of the Florida Lime Administrative Committee, established under the aforesaid marketing agreement and order, and upon other available information, it is hereby found that the limitation of handling of limes, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this amendment until 30 days after publication thereof in the FEDERAL REGISTER (60 Stat. 237; 5 U. S. C. 1001 et seq.) in that, as hereinafter set forth, the time intervening between the date when information upon which this amendment is based became available and the time

when this amendment must become effective in order to effectuate the declared policy of the act is insufficient; a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective not later than August 6, 1956. Shipments of designated varieties of Florida limes are currently subject to quality and size regulation pursuant to Lime Order 3 (§ 1001.303; 21 F. R. 5033), and, unless sooner modified or terminated, will continue to be so regulated until May 1, 1957; determinations as to the need for, and extent of, continued regulation of Florida lime shipments must await the development of the crop and the availability of information on the demand for such fruit; the recommendation and supporting information for regulation of lime shipments subsequent to August 5, 1956, and in the manner herein provided, were promptly submitted to the Department after an open meeting of the Florida Lime Administrative Committee on July 24; such meeting was held to consider recommendations for regulation, after giving due notice of such meeting, and interested persons were given an opportunity to submit their views at this meeting; the provisions of this amendment are identical with the aforesaid recommendation of the committee, and information concerning such provisions has been disseminated among handlers of Florida limes; it is necessary, in order to effectuate the declared policy of the act, to make this amendment effective at the time hereinafter set forth; and compliance with this amendment will not require any special preparation on the part of the persons subject thereto which cannot be completed by the effective time hereof.

It is, therefore, ordered: That the provisions in subparagraph (2) (ii) of paragraph (b) of § 1001.303 (Lime Order 3; 21 F. R. 5033) are hereby amended to read as follows:

(ii) Any container of limes, grown in the State of Florida, except the area west of the Suwannee River, of the group known as large fruited or persian limes (including Tahiti, Bearss, and similar varieties) unless the limes in such container grade at least U. S. Combination Turning, and are of a size not smaller than 1½ inches in diameter, nor larger than 2¼ inches in diameter: *Provided*, That, not to exceed 5 percent, by count, of the limes in any container may fail to meet such diameter requirements; or

Effective time. The provisions of this amendment shall become effective at 12:01 a. m., e. s. t., August 6, 1956.

(Sec. 5, 49 Stat. 753, as amended; 7 U. S. C. 608c)

Dated: August 1, 1956.

[SEAL]

S. R. SMITH,
Director, Fruit and Vegetable
Division, Agricultural Mar-
keting Service.

[F. R. Doc. 56-6291; Filed, Aug. 3, 1956; 8:51 a. m.]

TITLE 26—INTERNAL REVENUE, 1954

Chapter I—Internal Revenue Service, Department of the Treasury

Subchapter E—Alcohol, Tobacco, and Other Excise Taxes

[T. D. 6194]

PART 175—TRAFFIC IN CONTAINERS OF DISTILLED SPIRITS

LIQUOR BOTTLES

In order (a) to liberalize the requirement that the penalty clause may be placed only on the shoulder of a regular liquor bottle, and (b) to delete the requirement that consignees must furnish consignors with a notice of receipt each time a shipment of liquor bottles is received, 26 CFR Part 175 is amended as follows:

PARAGRAPH 1. Section 175.34 is amended by striking therefrom the phrase "on the shoulder", and inserting in lieu thereof the phrase "on the neck, shoulder, or side".

PAR. 2. Section 175.71 is amended as follows:

(A) By amending the headnote to read, "Report of shipment by manufacturer".

(B) By inserting at the end of the section the following new sentence, "The consignee shall note on the report the date the shipment was received and any shortage."

PAR. 3. Section 175.72 is revoked and a new § 175.72 is added as follows:

§ 175.72 *Report of return shipment by bottler.* When a bottler returns unused bottles to a manufacturer, he shall furnish the manufacturer a report showing the date of the bottler's order, the date the return shipment was made, the shipping or delivery destination, the method of shipment, the number of packages, and the size, quantity, and description of the liquor bottles returned. The manufacturer shall note on the report the date the shipment was received and any shortage.

PAR. 4. Section 175.73 and the headnote thereto is amended to read as follows:

§ 175.73 *Records of orders for, and reports of shipment of, liquor bottles.* The person placing the order shall keep in his place of business a copy of each order and the original report of shipment or delivery. The manufacturer-consignor shall keep in his place of business the original order and a copy of the report of shipment or delivery. Where stocks of liquor bottles bearing the same indicia authorized under § 175.60 are ordered by a parent company for shipment direct to a wholly owned subsidiary, the parent company shall furnish such subsidiary with a copy of the order. Where such bottles are ordered and received by the parent company and subsequently transferred to a wholly owned subsidiary, the parent company shall furnish the subsidiary with a notice of such shipment. Where such liquor bottles are transferred between the wholly owned subsidiaries, the transferor shall

furnish the transferee with a notice of shipment. The records prescribed by this part shall be maintained for a period of two years, available for inspection by internal revenue officers.

PAR. 5. Section 175.87 is amended by striking from the third sentence, which begins "There shall be", the phrase "in the shoulder" and inserting in lieu thereof the phrase "on the neck, shoulder, or side".

PAR. 6. Section 175.94 is amended by striking therefrom the phrase "in the shoulder" and inserting in lieu thereof the phrase "on the neck, shoulder, or side".

Because this Treasury decision is liberalizing in effect and noncontroversial in character, it is hereby found unnecessary to issue the Treasury decision with notice and public procedure thereon under section 4 (a), or subject to the effective date limitation of section 4 (c), of the Administrative Procedure Act, approved June 11, 1946. Accordingly, this Treasury decision shall be effective on the date of publication in the FEDERAL REGISTER.

(Sec. 7805, 68A Stat. 917; 26 U. S. C. 7805)

[SEAL]

O. GORDON DELK,
Acting Commissioner
of Internal Revenue.

Approved: August 1, 1956.

DAN THROOP SMITH,
Special Assistant to the Secretary
in Charge of Tax Policy.

[F. R. Doc. 56-6285; Filed, Aug. 3, 1956;
8:50 a. m.]

Subchapter H—Internal Revenue Practice

PART 601—STATEMENT OF PROCEDURAL RULES

This part, as filed with the FEDERAL REGISTER on June 29, 1955, and as amended on October 13, 1955, is further amended as follows:

PARAGRAPH 1. Section 601.103 (c) (1), *General*, is amended by striking out the second sentence and inserting in lieu thereof the following: "Following review of the protest, the case will be referred to the Appellate Division of the region (if that Division has jurisdiction, see § 601.106 (a) (3)), and the taxpayer may also be accorded a conference in the Appellate Division."

PAR. 2. Section 601.105 (c) (2), *Scope of informal conference procedure*, is amended by striking out in the second sentence after the colon "chapter 35 (relating to wagering)" and by inserting in lieu thereof "subchapter B of chapter 35 (relating to the occupational tax on wagering)".

PAR. 3. Section 601.203 (a), *General*, is amended by striking out all of subparagraph (1) and inserting in lieu thereof the following:

(1) The Commissioner may compromise, in accordance with the provisions of section 7122 of the Code, any civil or criminal case raising under the internal revenue laws prior to reference to the Department of Justice for prosecution or

defense. Certain functions of the Commissioner with respect to compromises of civil cases involving liability under \$5,000, and of certain specific penalties involving only the regulatory provisions of the Code and related statutes, have been delegated to district directors of internal revenue. In civil cases involving liability of \$500 or over and in criminal cases the functions of the General Counsel are performed by the Chief Counsel for the Internal Revenue Service. In certain cases these functions are performed in the National Office and in other cases by Regional Counsel. (See also paragraph (c) of this section.)

PAR. 4. Section 601.203 (c), *Consideration of offer*, is amended as follows:

(A) By striking out the third sentence, and that portion of the fourth sentence which precedes (a) of subparagraph (1) and inserting in lieu thereof the following:

If the district director has jurisdiction over the processing of the offer he will—

(i) Reject the offer, or

(ii) Accept the offer if it involves a civil liability under \$500, or

(iii) Accept the offer if it involves a civil liability of \$500 or more, but less than \$5,000, or involves a specific penalty (including in the case of narcotics, smoking opium, and marihuana taxes only those specific penalties which involve delinquency in registration or delinquency in payment), and the Regional Counsel concurs in the acceptance of the offer, or

(iv) Recommend to the National Office the acceptance of the offer if it involves a civil liability of \$5,000 or over.

(2) (i) If the district director does not have jurisdiction over the entire processing of the offer, the offer is transmitted to the appropriate Regional Counsel if the case is one in which:

(B) By redesignating (1), (2), (3), and (4) of subparagraph (2) (i) (h) (as redesignated) as subdivisions (ii), (iii), (iv), and (v).

(C) By amending subdivisions (ii), (iii), and (iv) of subparagraph (2) (as redesignated) by striking out "this subparagraph" each place it appears and inserting in lieu thereof "subdivision (i) of this subparagraph".

(D) By amending subdivision (v) of subparagraph (2) (as redesignated) to read as follows:

(v) An offer under the processing jurisdiction of the Regional Counsel which is considered acceptable is either referred to the district director or to the Office of the Chief Counsel in Washington for approval, depending upon whether the amount of civil liability involved is less than \$5,000 or is \$5,000 or more.

(E) By redesignating subparagraphs (2) and (3) as subparagraphs (3) and (4).

PAR. 5. Section 601.203 (d), *Conferences*, is amended by adding immediately preceding the last sentence thereof the following: The procedure outlined in the preceding sentence will not be followed if the offer relates to a tax as to which the Appellate Division does not

have authority to function. See § 601.106 (a) (3)."

PAR. 6. Section 601.301 (c), *Regulations*, is amended as follows:

(A) By striking out all of subparagraph (30) *Inducements furnished to retailers*, and inserting in lieu thereof the following:

(30) *Inducements furnished to retailers.* Regulations No. 6 (27 CFR Part 6), issued under the Federal Alcohol Administration Act, as amended, contain the requirements relative to the furnishing, giving, renting, lending, or selling of equipment, fixtures, signs, supplies, money, services, or other things of value to retailers of distilled spirits, wine, and malt beverages, by other members of the liquor industry (principally vendors), including the furnishing of samples and advertising cuts.

(B) By adding at the end thereof a new subparagraph to read as follows:

(34) *Miscellaneous regulations relating to liquors.* Part 170 of this chapter contains miscellaneous regulations governing the restamping of packages of distilled spirits, redemption of strip stamps and stamps denoting payment of tax that were purchased prior to January 1, 1955, and the refund of tax and duty paid on distilled spirits and wines lost as a result of the hurricanes of 1954.

PAR. 7. Section 601.304 *Preparation and filing of claims*, is amended by striking out the heading of paragraph (h) and inserting in lieu thereof the following: "(h) *Drawback of tax on distilled spirits, wines, and beer.*"

PAR. 8. Section 601.305 (a), *Liability under Internal Revenue Code*, is amended by striking out the fourth and fifth sentences and inserting in lieu thereof the following: "Such offers are forwarded by the district director to the assistant regional commissioner (alcohol and tobacco tax) for consideration and appropriate action. When the offer is acted upon, the district director and the proponent are notified of the acceptance or rejection of the offer."

PAR. 9. Section 601.322 *Seizures of vessels, vehicles, and aircraft in connection with contraband firearms*, is redesignated as § 601.326.

PAR. 10. Immediately preceding § 601.326 (as redesignated) *Seizures of vessels, vehicles, and aircraft in connection with contraband firearms*, the following new sections are added:

§ 601.322 *Rulings.* Any person who is in doubt as to any matter arising in connection with the taxes relating to machine guns and certain other firearms imposed by chapter 53 of the Internal Revenue Code, the licensing of manufacturers of, and dealers in, firearms or ammunition under sections 901 through 909 of title 15 of the United States Code, the registration by importers and manufacturers of, and dealers in, firearms, and the registration of firearms may request a ruling thereon by addressing a letter to the Director, Alcohol and Tobacco Tax Division, Internal Revenue Service, Washington 25, D. C. Routine requests for information should be addressed to the assistant regional com-

missioner (alcohol and tobacco tax) of the region in which the inquirer is located.

§ 601.323 *Assessments.* Where the evidence disclosed by investigation establishes that additional or delinquent tax liability has been incurred and not paid, the Director, Alcohol and Tobacco Tax Division, will notify the district director to list the tax as an assessment. Notification and demand for payment of assessed taxes will be issued the taxpayer by the district director.

§ 601.324 *Redemption of or allowance for stamps or refunds.* The procedure to be followed in the filing of claims for redemption of or allowance for stamps unused or destroyed, mutilated, or rendered useless after purchase, and before liability has been incurred; for refund of taxes assessed and paid; and for refund of taxes paid on firearms exported; are prescribed in Part 179 of this chapter.

§ 601.325 *Offers in compromise.* The procedure in the case of offers in compromise of liability under chapter 53 of the Internal Revenue Code of 1954 is the same as that set forth in § 601.305 (a).

PAR. 11. Section 601.601 (a) (1), relating to the formulation of rules and regulations, is amended as follows:

(A) By striking out the second sentence and inserting in lieu thereof the following: "The most important rules are issued as regulations and Treasury decisions, prescribed by the Commissioner and approved by the Secretary or his delegate."

(B) By striking out the last sentence and inserting in lieu thereof the following: "After approval by the Commissioner, regulations and Treasury decisions are forwarded to the Secretary or his delegate for further consideration and final approval."

(R. S. 161; 5 U. S. C. 22)

[SEAL]

O. GORDON DELK,
Acting Commissioner
of Internal Revenue.

[F. R. Doc. 56-6278; Filed, Aug. 3, 1956;
8:49 a. m.]

TITLE 43—PUBLIC LANDS: INTERIOR

Chapter I—Bureau of Land Management, Department of the Interior

Appendix—Public Land Orders

[Public Land Order 1299]

[BLM-041500]

ARKANSAS AND MISSOURI

WITHDRAWING PUBLIC LANDS FOR USE OF
DEPARTMENT OF THE ARMY IN CONNECTION
WITH CONSTRUCTION, OPERATION, AND
MAINTENANCE OF BULL SHOALS DAM AND
RESERVOIR PROJECT

Correction

In Federal Register Document 56-5931, appearing at page 5535, issue of July 24, 1956, the land description in sec. 24 of "T. 20N., R15W., Left Bank of White River" should read: "Sec. 24, S $\frac{1}{2}$ NW $\frac{1}{4}$, Frac'l. W $\frac{1}{2}$ SW $\frac{1}{4}$."

TITLE 47—TELECOMMUNICATION

Chapter I—Federal Communications Commission

[Rules Amdt. 12-21]

PART 12—AMATEUR RADIO SERVICE

OPERATOR EXAMINATION POINTS

In the matter of amendment of Appendix I, Part 12 regarding commercial and amateur Radio Operator examination points.

The Commission having under consideration a modification of its amateur and commercial radio operator license examination points; and

It appearing that the number of examinations given does not warrant continued holding of quarterly examinations at Jackson, Mississippi, and that such examinations should instead be given semi-annually; and

It further appearing that for the same reason Butte, Montana, should be changed from a semi-annual to an annual examination point and Tallahassee, Florida, should be eliminated as an annual examination point; and

It further appearing that the amendment herein ordered is not substantive in nature and therefore compliance with the public rule making procedures required by Section 4 (a) and (b) of the Administrative Procedure Act is not required and the amendment may be made effective September 10, 1956.

It is ordered, Pursuant to authority contained in section 0.341, under authority delegated to the Secretary after having secured approval of the Bureau responsible for the particular part or section of the rules involved, and to authority contained in sections 4 (l) and 303 (r) of the Communications Act of 1934, as amended, and section 3 (a) of the Administrative Procedure Act, that Appendix I of Part 12 of the Commission's rules be amended as set forth below, effective September 10, 1956.

(Sec. 4, 48 Stat. 1066, as amended; 47 U. S. C. 154. Interprets or applies sec. 303, 48 Stat. 1082, as amended; 47 U. S. C. 303)

Adopted: July 31, 1956.

Released: July 31, 1956.

FEDERAL COMMUNICATIONS
COMMISSION.

[SEAL]

DEE W. PINCOCK,
Acting Secretary.

1. Amend Appendix I, Part 12, by removing Jackson, Mississippi, from the "quarterly" listing, adding that city in alphabetical sequence to the "semi-annual" listing within this subsection.

2. Amend Appendix I, Part 12, by removing from the "semi-annual" listing the city of Butte, Montana, adding this city in alphabetical sequence to the "annual" listing within this subsection.

3. Amend Appendix I, Part 12, by removing from the "annual" listing the city of Tallahassee, Florida.

[F. R. Doc. 56-6259; Filed, Aug. 3, 1956;
8:46 a. m.]

TITLE 49—TRANSPORTATION

Chapter I—Interstate Commerce Commission

PART 1—GENERAL RULES OF PRACTICE

TYPOGRAPHICAL SPECIFICATIONS GENERALLY

At a General Session of the Interstate Commerce Commission, held at its office in Washington, D. C., on the 13th day of July A. D. 1956.

There being under consideration Rule 15 of the general rules of practice (§ 1.15):

It is ordered, That § 1.15 be, and the same is hereby, amended so as to read as follows:

§ 1.15 *Typographical specifications generally.* Except as otherwise provided respecting applications (§ 1.38 (a)), exhibits (§ 1.84 (a)), and informal complaints (§ 1.24 (a)), all pleadings, documents, and papers to be filed under these rules shall be on opaque, unglazed, durable paper not exceeding 8½ by 11 inches. To permit binding in covers of uniform size, margins of at least 1½ and 1 inch, respectively, shall be allowed on the left and right margins. Binding shall be on the left margin. Reproduction may be by printing, printing by off-set press, multigraphing, or mimeographing, or by any other process, provided the copies are clear and permanently legible. White-line blueprints which cannot be reproduced by photography are not acceptable. If directly typewritten, or if in facsimile reproduction of typewriting, the impression must be on one side of the paper and must be double-spaced, except that long quotations shall be single-spaced and indented. Nothing less than Pica type shall be used, except that Elite type may be used in footnotes. If printed, adequate leading and nothing less than 10-point type shall be used, except that 8-point type may be employed in footnotes and in tabular matter where printing limitations so require. A pleading or brief in excess of 50 pages (except a pleading under modified or shortened procedure), including cover pages, indexes, and appendixes, must be printed. Printing by off-set press will be accepted,

provided that the type used is the same size as that required for typewritten documents and that where the pleading or brief exceeds 50 pages, the impression is on both sides of the paper.

It is further ordered, That this order shall become effective on October 1, 1956.

And it is further ordered, That notice of this order shall be given to the general public by depositing a copy thereof in the Office of the Secretary of the Commission, Washington, D. C., and by filing a copy with the Director, Division of the Federal Register.

(Secs. 12, 17, 24 Stat. 383, as amended, 385, as amended, 49 Stat. 546, as amended, 548, as amended, sec. 201, 54 Stat. 933, sec. 1, 56 Stat. 285; 49 U. S. C. 12, 17, 304, 305, 904, 1003)

[SEAL]

HAROLD D. MCCOY,
Secretary.

[F. R. Doc. 56-6282; Filed, Aug. 3, 1956;
8:50 a. m.]

PART 1—GENERAL RULES OF PRACTICE

PETITIONS FOR REHEARING, REARGUMENT, OR RECONSIDERATION

At a General Session of the Interstate Commerce Commission, held at its office in Washington, D. C., on the 19th day of July A. D. 1956.

There being under consideration Rule 101 of the general rules of practice (§ 1.101 *Petitions for rehearing, reargument, or reconsideration*):

It is ordered, That Rule 101 of the general rules of practice (§ 1.101) be, and the same is hereby, amended by deleting the words "paragraph (d)" from paragraph (f) *Successive petitions on same grounds, not entertained* of § 1.101. As amended, paragraph (f) will read as follows:

(f) *Successive petitions on same grounds, not entertained.* A successive petition under this section submitted by the same party or parties, and upon substantially the same grounds as a former petition, which has been considered and denied by the entire Commission will not be entertained.

It is further ordered, That the effective date of this order shall be October 1, 1956;

And it is further ordered, That notice of this order shall be given to the general public by depositing a copy thereof in the Office of the Secretary of the Commission, Washington, D. C., and by filing a copy with the Director, Division of the Federal Register.

(Secs. 12, 17, 24 Stat. 383, as amended, 385, as amended, 49 Stat. 546, as amended, 548, as amended, sec. 201, 54 Stat. 933, sec. 1, 56 Stat. 285; 49 U. S. C. 12, 17, 304, 305, 904, 1003)

By the Commission.

[SEAL]

HAROLD D. MCCOY,
Secretary.

[F. R. Doc. 56-6283; Filed, Aug. 3, 1956;
8:50 a. m.]

TITLE 50—WILDLIFE

Chapter I—Fish and Wildlife Service, Department of the Interior

Subchapter F—Alaska Commercial Fisheries

PART 117—SOUTHEASTERN ALASKA AREA, ICY STRAIT DISTRICT, SALMON FISHERIES

CURTAILMENT OF OPEN SEASON

Basis and purpose. On the basis of a poor showing of pink salmon in the Icy Strait district of Southeastern Alaska, it has been determined that the season in that district should be curtailed.

Therefore, effective immediately upon publication in the FEDERAL REGISTER, § 117.3 is amended in text in paragraph (b) by deleting "6 o'clock postmeridian August 7", and substituting in lieu thereof "6 o'clock antemeridian August 6, 1956."

Since immediate action is necessary, notice and public procedure on this amendment are impracticable (60 Stat. 237; 5 U. S. C. 1001 et seq.).

(Sec. 1, 43 Stat. 464, as amended; 48 U. S. C. 221)

JOHN L. FARLEY,
Director.

AUGUST 3, 1956.

[F. R. Doc. 56-6382; Filed, Aug. 3, 1956;
11:27 a. m.]

PROPOSED RULE MAKING

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Parts 923, 972, 1012]

[Docket Nos. AO-251-A1, AO-177-A15,
AO-278]

HANDLING OF MILK IN THE APPALACHIAN, TRI-STATE, AND BLUEFIELD MARKETING AREAS

NOTICE OF RECOMMENDED DECISION AND OPPORTUNITY TO FILE WRITTEN EXCEPTIONS THERETO WITH RESPECT TO TENTATIVE AMENDMENTS TO TENTATIVE MARKETING AGREEMENT AND ORDER FOR THE APPALACHIAN MARKETING AREA, AND PROPOSED MARKETING AGREEMENT AND ORDER FOR BLUEFIELD MARKETING AREA

Pursuant to the rules of practice and procedure, as amended, governing pro-

ceedings to formulate marketing agreements and orders (7 CFR Part 900) notice is hereby given of the filing with the Hearing Clerk of this recommended decision of the Deputy Administrator, Agricultural Marketing Service, United States Department of Agriculture, with respect to (1) proposed amendments to the tentative marketing agreement and order regulating the handling of milk in the Appalachian marketing area, and (2) a proposed marketing agreement and order regulating the handling of milk in the Bluefield marketing area, to be made effective pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.).

Interested parties may file exceptions to this recommended decision with the Hearing Clerk, Room 112, Administra-

tion Building, United States Department of Agriculture, Washington 25, D. C., not later than the close of business on the 15th day after the publication of this recommended decision in the FEDERAL REGISTER. Exceptions should be filed in quadruplicate.

Preliminary statement. A public hearing on the record of which the recommended regulatory provisions set forth below with respect to the Appalachian and Bluefield marketing areas were formulated was called by the Agricultural Marketing Service, United States Department of Agriculture, following receipt of a petition filed by the Tri-State Milk Producers Association, Inc. The hearing was held at Bluefield, West Virginia, February 6-10, 1956, pursuant to notice duly published in the FEDERAL REGISTER on January 21, 1956 (21 F. R.

499). The period until March 24, 1956, was reserved to interested parties for the filing of briefs on the record.

The hearing gave consideration, among other things, to the alternative possibilities of (1) expanding the present Appalachian marketing area to regulate the handling of milk in all or part of certain counties in Virginia, West Virginia, and Kentucky referred to as the "Bluefield market"; (2) expanding the present Tri-State marketing area (Huntington district) to regulate the handling of milk in all or part of such counties; or (3) issuing one or more separate orders to regulate the handling of milk in all or part of such counties.

In view of the findings and conclusions set forth below with respect to the need for regulation in the proposed Bluefield marketing area and to the location and organization of such market, it is concluded that the marketing of milk in such marketing area and that in the Tri-State marketing area do not warrant regulation on common terms. It is concluded, therefore, that the record of this hearing does not support expansion of the Tri-State marketing area or need for amendment of any other provision of the order for the latter marketing area. The extent of the relationship existing between the Appalachian and Bluefield markets is discussed below.

At the opening of the hearing, certain distributors of milk serving the proposed Bluefield marketing area moved that consideration be given on this hearing only to the evidence concerning the proper marketing area to be regulated, and that any decision on the handling of milk in the Bluefield market made as the result of the hearing be limited to a determination as to what counties or areas should be made subject to regulation. It was further moved that following a decision on the extent of the area to be regulated, the hearing should be reopened to receive evidence as to the specific regulatory terms and provisions which should be applied. These motions were renewed after the receipt of evidence on the marketing area proposals and again in the brief filed on behalf of such handlers.

Careful consideration has been given to the motions. It is concluded, however, in light of the findings and conclusions which follow, that the record provides a basis for appropriate regulation of the Bluefield marketing area as proposed herein. The motions (1) to limit the current decision to a determination of the area to be regulated, and (2) to reopen the hearing for further evidence on other issues following such a determination, are hereby denied.

Proposed amendments to the Appalachian order—Statement of issues. The material issues of record concerning proposals to amend the provisions of the order regulating the handling of milk in the Appalachian marketing area related to:

1. Whether the Appalachian marketing area should be extended so as to regulate a number of additional counties, including those proposed herein for regulation under a separate order for the Bluefield marketing area.

2. Revision of the definition of "fluid milk plant."

3. Modification of the rules relating to inter-plant transfers of milk.

4. Revision of the computation of uniform prices for base milk and excess milk.

5. Inclusion of a provision for "advance" payments to producers who are members of a cooperative association.

6. Revisions concerning the classification of milk, with particular reference to the computation of shrinkage, the allocation of other source milk, and the classification of skim milk and butterfat utilized as livestock feed or dumped.

7. Modification of the price formula for Class II milk.

8. Revision of the base-forming and base-operating periods and of rules governing base transfers.

9. The introduction of a "supply-demand adjuster" in the Class I price formula; also establishment of an appropriate price for Class I milk in the proposed expanded segment of the marketing area, and

10. Review of all other regulatory provisions and possible changes for administrative purposes.

Findings and conclusions. Upon the evidence adduced at the hearing and the record thereof, the following findings and conclusions are hereby made with respect to the proposed amendments to the Appalachian marketing order:

1. **Appalachian marketing area.** Producers proposed that the counties of Dickenson and Russell in Virginia be included within the Appalachian marketing area.

They testified that scheduled power plant construction and improvement in the demand for coal in Russell and Dickenson counties, Virginia, would increase the demand for dairy products in these counties. Also, that an increase in demand for dairy products may encourage unregulated handlers to distribute dairy products in these counties.

One handler testified that the principal competitors for sales in these two counties are regulated currently. He testified further that because of the rural population there is relatively little milk sold in these counties at this time.

These two counties are only sparsely populated and are not a problem area for producers. There are no milk distributing plants located in such counties. Competition between Appalachian handlers and milk distributors from the proposed Bluefield market for sales in these counties may not be considered sufficient, or to have such adverse effect on the distribution of milk by Appalachian handlers, to require regulation of the Bluefield distributors under the Appalachian order. Moreover, in the event an order for the Bluefield marketing area is made effective, distributors from such market operating routes in Russell and Dickenson counties will be subject to price regulation on terms highly comparable to those applicable under the Appalachian order. It is concluded that the Appalachian marketing area should not be expanded, as proposed by producers, to include Dickenson and Russell counties, Virginia.

There is need for clarification of the marketing area definition. In the Virginia section of the marketing area the corporate municipalities are separate from the counties in which they are located. For example, the city of Bristol, Virginia, geographically located in Washington County, Virginia, is a separate corporate municipality and a question arose at the hearing concerning whether the marketing area definition clearly includes such city. In order that the definition of the Appalachian marketing area may be completely clear as to the entire area included, it should be restated to specify that all territory geographically located within the perimeters of the counties of Sullivan, Washington, and Greene in Tennessee; Washington and Wise in Virginia; and Harlan in Kentucky is included in the marketing area.

2. **Fluid milk plant.** Producers proposed that plants which furnish supplemental supplies of milk to the market be included in the definition of "fluid milk plant" when any such plant supplies a monthly total in excess of 70,000 pounds of milk in any of the months of August through January, inclusive. Producers contended that such plants are a threat to the stability of the market because they are able to deliver large quantities of milk during the low production months from sources without being subject to minimum price regulation under this order.

Handlers objected to this proposal, on the basis that they would be denied the opportunity of procuring supplemental supplies from unregulated sources.

One handler receives supplemental supplies of approximately 400,000 pounds of milk per month from other regulated markets. This handler's supplemental supply of milk represents a substantial portion of the total quantity of all milk received from sources other than producers. He testified that he had not encountered difficulty in obtaining supplemental supplies of milk from regulated sources. Other handlers also receive milk from other regulated markets as well as from unregulated sources.

Three methods of defining a "fluid milk plant" in terms of its association with the market through delivery performance are possible:

(1) Exemption from regulation regardless of quantities delivered,

(2) Full regulation regardless of quantities delivered (except plants already under regulation by another order), or

(3) Partial exemption on the basis of a minimum delivery requirement.

If handlers were permitted to receive milk from outside the order in unlimited quantities a significant percentage of the market supply of milk in the fall months would not be subject in any way to the pricing and payment provisions of the Appalachian order or of any similar regulation. This could result in (1) a portion of the market supply being procured on a "flat price" basis without regard to the use of milk as distinguished from the classified-price plan provided in the order, (2) limiting the effectiveness of the pricing and payment provisions of the order as a means of encouraging farmers to produce a year-round supply

of pure and wholesome milk for the Appalachian market, and (3) an incentive to handlers to use milk from sources outside regulation in preference to seeking an adequate supply of producer milk in all months. These factors would create a constant threat to the classified price plan and would not be consonant with the ends sought by the regulation.

Under the second method all plants supplying supplemental supplies of milk, even in small quantities (except those already under regulation by another order) would be regulated. Factors limiting the advisability of this method are as follows:

(1) The Appalachian order might be imposed upon plants with primary attachment to another market.

(2) Plants shipping only small, or incidental, amounts of milk would be brought under regulation, resulting in extra expense to the plant operator and increasing administrative expense without necessity in terms of attaining stabilized marketing conditions for producers' milk.

(3) Local producers of Grade A milk might be forced to share a greater proportion of their Class I market with producers shipping milk not meeting equivalent health requirements.

(4) Administrative problems would be incurred in administering the order with respect to plants located at considerable distances from the market.

In view of the above a partial exemption provision is appropriate. After consideration of the size of the plant operations in the market, the supplemental sources available, the extent to which other source milk must be relied upon to satisfy Class I requirements and the necessity for maintaining an adequate reserve of milk, it is concluded that an exemption allowance of 70,000 pounds of milk (approximately two full tank loads) is reasonable. In this connection official notice is taken of the partial exemption provision of the Tri-State order (§ 972.8) under which a supply plant is regulated if it supplies only 25,000 pounds or more (or an amount of skim milk or butterfat from which 25,000 pounds or more of Class I milk are derived) to the Tri-State market. This limitation has been operative in the Tri-State market since May 1, 1954. It is concluded that any plant should be regulated as a fluid milk plant when it furnishes milk, skim milk, or cream in fluid form in excess of 70,000 pounds for the month during the period August through January, inclusive.

3. *Transfers and diversions of milk.* A revision of the conditions on which milk may be transferred to nonfluid milk plants as Class II milk was proposed by producers. They would extend the distance within which a Class II classification may apply from the present radius of 50 miles to a radius of 100 miles from the marketing area. It was stated that such change would permit movements of milk for Class II use to a nonfluid milk plant 70 miles from Bluefield, West Virginia, that has been used at times as a surplus milk outlet for the Bluefield market and is accessible to the Appalachian market.

Handlers first proposed that a mileage limitation be omitted as a condition nec-

essary to the transfer of milk to nonfluid milk plants for use as Class II milk. After further consideration specific suggestions for mileage limitations of 250 miles and 350 miles from the transferor-plant were offered. Any milk moved beyond the particular distance fixed would become Class I milk automatically. One handler reported an offer to have surplus milk hauled to a company manufacturing plant at Columbia, Tennessee, about 350 miles from Bristol, at rates which, it was stated, would make it feasible for such handler to so move the milk for manufacturing purposes.

The order provides that producer milk will be paid for in accordance with the form in which, or the purpose for which, it is used. Classification based only on the purpose for which producer milk is used would require verification of the receipts and final utilization of milk at nonfluid milk plants regardless of the distance or number of nonfluid milk plants involved. Consideration should be given to the increased administrative cost when it is necessary to verify the final use of milk, skim milk, or cream transferred to plants not under regulation.

When the market in its entirety is considered, the volume of surplus milk, even in the peak production months, is not sufficient to require milk to be moved 350 miles for manufacturing. One handler finds it necessary to import a substantial volume of other source milk for Class I use throughout the entire year. In addition, at least four nonfluid milk plants within a distance of approximately 150 miles of Kingsport, Tennessee, are available as outlets for surplus milk. In view of the administrative necessity for limiting the area within which milk may be moved for Class II purposes the interplant transfer provisions should be changed so that milk moved to a nonfluid milk plant less than 150 miles from Kingsport, Tennessee, by the shortest hard-surfaced highway distance, may be classified as Class II milk under certain conditions.

4. *Base and excess price computations.* Producers proposed revisions in the methods of computing the uniform prices for "base milk" and "excess milk" to prevent the uniform price of excess milk from exceeding that of base milk. They claimed that an excess price that exceeds the base price is not in accord with the principle, involved in the base-excess plan, of providing returns to producers which are related directly to a producer's ability to deliver additional supplies of milk in the fall and winter months and relatively smaller supplies of milk during the flush production months.

The order presently provides that uniform prices for base and excess milk shall be computed for each handler for certain months of the year. When the total Class I milk of the handler does not exceed his total base milk receipts, the value of excess milk is determined by multiplying the amount of such milk by the Class II price. The value of base milk is then computed by deducting such value of excess milk from the net obligation of the handler. The order further provides that if the value of base milk computed in this manner exceeds

an amount computed by multiplying the pounds of base milk by the Class I milk price, such additional amount is added to the value of excess milk.

Handlers with a high percentage of Class I utilization frequently have experienced a shortage of producer milk in relation to Class I sales in this market. In addition, audit adjustments, inventory reclassifications, and overages may increase the total value of producer milk in a given month. As a result, it is possible for the price of excess milk of a handler to increase, under present order provisions, above the level of base milk (at the Class I price level). No particular purpose is served in terms of moderating the seasonality of milk deliveries when the excess price exceeds the base price. It is concluded therefore that whenever the excess price would exceed the base price the base and excess prices should be recomputed so that they are equal to each other.

5. *Advance payments.* It was proposed that handlers, upon request of a cooperative association, be required to make "advance" payments to the association with respect to member milk in addition to the regular monthly payments. The advance payments would be made on the 23rd day of each month on milk received from those member producers who have requested an advance from the cooperative association for their deliveries of milk during the first fifteen days of such month. The rate of payment would not be less than the Class II price per hundredweight for the preceding month. It was testified that an advance payment for milk would assist producers in defraying production costs more promptly.

Handlers suggested that if advance payments are provided for they be made available to all producers, members or nonmembers of an association, on or before the last day of each month, for milk received during the first fifteen days of such month, at a rate not less than the Class II price per hundredweight for the preceding month. One handler testified that in past years his company had made advance payments for the milk received from farmers during the first fifteen days of the month.

Advance payments are customarily made on a voluntary basis in this market. There is no evidence that handlers have refused to make advance payments to producers when requested. There was no request for an advance payment provision which would apply to all producers. It is concluded that an advance payment provision is not necessary at this time.

6. *Classification of milk.* The definition of Class II milk should be revised.

Milk returned to plants from handlers' routes in this market frequently cannot be processed for resale as other dairy products. Some milk and milk products are either dumped or disposed of as animal feed. There is need, for administrative purposes, to specify additional categories of Class II milk since administrative difficulty has been encountered in determining the proper classification of products disposed of as animal feed on the basis of the wording of present class definitions. In some

cases where small quantities are involved dumping is the only practical outlet. This may be particularly necessary during April, May, June and July.

It is concluded that skim milk which is dumped during the months of April, May, June, and July, and skim milk disposed of as animal feed, should be included in Class II milk. Because dumping can be verified only at the time the action is taken, the handler should be required to give six hours' advance notice to the market administrator so that the market administrator may arrange for an inspection of the dumping if he believes it advisable.

Handlers proposed that actual shrinkage not in excess of 2 percent of total producer receipts of skim milk and butterfat be allocated to Class II milk. Also, that actual shrinkage of all other source milk be allocated to such class. However, when producer milk was utilized as milk, skim milk, or cream in conjunction with other source milk, the shrinkage of skim milk and butterfat allocated to producer milk and other source milk would be computed pro rata according to the proportions of skim milk and butterfat received from such sources, respectively, to their total. It was contended that under a classified-price plan shrinkage should be in the lowest-priced class since it has no actual value in usage.

One handler suggested a modified proposal under which (1) actual shrinkage not in excess of 2 percent of total producer receipts (other than receipts from the pool plant of another handler) of skim milk and butterfat would be allocated to Class II milk, and (2) shrinkage of skim and butterfat classified as Class II milk would be prorated between producer and other source milk. Reasons given by the latter handler for the above shrinkage computation and allocation were as follows: (1) Skim milk and butterfat allocated to Class I should include only milk actually used in making sales, (2) the weights of fluid milk received compared with the fluid milk sold as computed from conversion factors (used in changing units such as quarts, etc. to pounds of fluid milk, and "make" factors used in converting manufactured milk products to their equivalent pounds of fluid milk) leave little need for the computation of shrinkage by formula, (3) a reduction in the loss of milk can be achieved only at the sacrifice of other efficiencies in the fluid milk plant operation, (4) health regulations prevent the full use of milk at the beginning or end of a fluid milk operation, and (5) handlers receive no return from shrinkage but producers would receive the Class II price if allocated to Class II milk.

In opposing, producers testified that the allocation of a maximum of 2 percent of all producer receipts to Class II as shrinkage and the proration of this shrinkage between other source milk and producer receipts of milk would reduce returns to producers for their milk deliveries. It was claimed such a provision would permit handlers selling all producer milk in Class I to pay for a portion of their milk at the Class II price even though no shrinkage could be attributed to the manufacture of a Class II prod-

uct. Producers contended that if the proposal were adopted they could be penalized for the inefficiencies of a plant's operation and for inaccuracies in the handler's accounting procedures. It was suggested that the percentage of skim milk and butterfat in shrinkage allocated to Class II continue to be not greater than that which the actual quantity of producer milk utilized by the handler in Class II bears to his total receipts of producer milk.

The present provisions for the assignment of shrinkage (2 percent maximum) to Class II milk were developed in conjunction with the class price structure currently in effect in the Appalachian market. Any change in the shrinkage allowances in Class II milk would involve correlative adjustments in the class prices if producer returns are not to be affected.

Since handlers experienced approximately 1 percent shrinkage (annual average) of total receipts for 1955 the effect of the proposal, together with appropriate price adjustments, would be so minor that no significant change in the relationship of handler costs one to another would result. In view of the above, the proposal is denied.

One handler proposed that accounting periods of less than a full month be permitted under certain circumstances. It was testified that seasonal changes in supplies and sales necessitate importations of other source milk. Reference was made to the seasonal pattern of local milk production under which considerable quantities of milk are produced in the spring and summer months and substantially less in the fall and winter; also, that the opening and closing of schools causes rather drastic changes in Class I sales twice a year. In December, there is a characteristic decrease in Class I sales in the closing days of the month.

The primary purpose of the proponent in making this proposal was to provide that when producer milk became short within a period less than a month, and outside supplies were necessary, such supplies could be acquired and assigned to Class I. It was further stated that there are about three months in particular when other source milk is actually used in fulfilling Class I sales but is allocated to Class II milk under the monthly reporting and accounting system. This handler presented percentages to show that at times he needed additional milk during a given month while at other times during the same month he had an excess of producer milk. As a result, it was contended that the producer milk received by such plant was virtually all paid for at the Class I price even though some producer milk was physically disposed of in Class II products. Although supplemental purchases were restricted to a minimum, there was some surplus producer milk in the plant at different times of the month. Proponent contended that to allocate producer milk to Class I, through the monthly accounting method, results in arbitrary and inaccurate classification.

On the other hand, proponent recognized the burden of daily accounting and classification. It was proposed that,

as a compromise method, handlers be permitted to report their receipts and utilization on accounting periods consisting of not less than seven days. This privilege to the handler would be applied with respect to any three months of the year. The election by the handler of multiple accounting periods within a month was not intended, however, to alter the present practice of computing his total obligation for the month or the payment of uniform prices for base and excess milk on a monthly basis.

The administrative burden to both the handler and the market administrator of daily reporting and accounting under milk orders is well recognized through the industry. The monthly accounting system has become the standard under this type of regulation and is generally accepted as the most practical method of applying the provision of the act which requires milk to be classified in accordance with the form in which or the purpose for which it is used * * *. There are administrative limitations involved in accounting for specific "lots" of milk according to actual, or physical, disposition and allocation provisions such as those in question are necessary to distinguish the uses of "producer" and "other source milk" for classification purposes. The latter provisions eliminate the impossible administrative task of ascertaining the particular use of each hundredweight of milk regardless of source and make possible an accounting system of practical application. The extent to which producer milk may be given priority assignment of higher-valued uses has been established as the prerogative of the Secretary in formulating provisions which will provide reasonable protection to producers from the substitution of unregulated (unpriced) milk and thus promote orderly marketing. In any event, the handler is not compelled to pay producers for any greater utilization of milk than he actually makes in the particular class.

To operate a fluid milk distributing business individual handlers must choose either to maintain a sufficient volume of producer milk in reserve to meet fully the needs of their fluid milk (Class I) operation or to buy short from regular producers in the low production months with the intent of procuring supplementary supplies as necessary to fulfill Class I requirements. Although the handler buying supplementary supplies customarily pays a handling charge to the seller and transportation costs, which, when added to the price paid, increase the cost of such milk above the Class II price under the order, the handler carrying sufficient reserves to meet his needs at all times may retain such milk only at a cost, including the expense of moving such milk to manufacturing plants from time to time, which may seem a burden to his total operation, but which he determines is justified to assure himself of an adequate supply of producer milk. In either case the costs involved are not attributable to order regulation. The handler determines which method of operation is most economical in his particular circumstance. A proper method of allocation should not depend upon these relative costs.

The allocation of other source milk through multiple reporting periods would provide an incentive for handlers to use unpriced milk in preference to producer milk priced under the order. Thus, producer returns could be jeopardized and subject to considerable instability when handlers use other source milk for Class I purposes. Handlers could bring in more milk than was absolutely essential in the confidence that it would be credited at the Class I price. Such displacement of producer milk from Class I would mean that producer milk would be sold at a lower class price. As a result, producer returns would decrease resulting in less incentive to milk production, or class prices would have to be increased. Since it would not be feasible to increase Class II price to maintain producer returns, the alternative would be to increase the Class I price. Thus, the cost to consumers of maintaining an adequate and dependable supply of milk would be increased.

It must be recognized further that some handlers would not need to avail themselves of the privilege of reporting more than once a month at any time. A handler may carry in his plant all the necessary reserve of producer milk for Class I milk operations, eliminating the need to import outside milk, or may carry, as in the case of one Appalachian handler, so small a quantity of producer milk in relation to his Class I sales that such a provision would be of no significant benefit. Since the division of a month into two or more reporting and classification periods necessarily implies an accounting method which would permit proof of receipts, sales, inventories, and shrinkage for each such period within a month, the administrative effect is comparable to that involved in the longer period of a full month. The administrative functions of the market administrator's office primarily affected by this proposal are those of report processing and auditing. These are the most time consuming functions associated with order administration. They involve the bulk of the administrative cost. Thus, all handlers, rather than those electing the multiple reporting periods, would be required to bear the additional administrative cost of applying the order on the proposed basis.

In view of the above facts, the proposal for multiple reporting periods is denied. However, since it is necessary at times to allocate both regulated (priced under another Federal order) and unregulated milk from outside sources as "other source milk" in Appalachian plants, it is reasonable to allocate the unregulated milk first to the lowest-valued uses prior to the allocation of priced milk to any such use. The order has been so amended.

7. Class II pricing formula. Handlers proposed that the Class II pricing formula should be, in all months, the average of prices paid for milk received from dairy farmers at nine local manufacturing plants. At present this average price is used as the Class II price for the months of March through August only. Handlers noted, in this connection, the proposal of producers for a "supply-demand

adjustment" factor to be included in the Class I price formula. It was contended that if such a provision were to develop a full year-round supply for the market there would be reserve quantities of milk in the fall months as well as in the flush production season which necessarily would fall into Class II uses. On this basis, it was argued that Class II milk should be priced in the fall months at the same level as the milk which must be used for manufacturing purposes in the months of March through August.

During the months of below-average production a higher level of prices for Class II milk should be provided so as to encourage the transfer of milk from manufacturing to higher-valued uses. In these months there are available outlets for reserve milk in cottage cheese and ice cream which among surplus uses are considered as preferred outlets. Producer receipts were sufficient in only two months during the flush production season of 1955 to cover Class I sales and to provide reasonable Class I reserves. The months of September through February are the months when substantial volumes of milk are received from sources other than local producers, to supply the Class I needs of the market as well as some Class II milk uses. Supplemental supplies of milk during the short production season are received from areas where the price of milk used in the manufacture of butter and nonfat dry milk solids is an important factor in establishing the prevailing farm values of manufacturing milk. It is concluded that the proposed reduction of Class II prices for the months of September through February is not necessary in order to achieve the orderly marketing of milk in this area.

However, it is noted that for the purpose of computing the butter-nonfat dry milk solids price formula for Class II milk and the butterfat differential for adjusting the Class II price the price of 92-score butter at New York is used in lieu of the Chicago butter price as employed in the basic formula price. Since central market pricing of butter and nonfat dry milk solids at Chicago are basic to the price structure for the Appalachian market, it is consistent to utilize the Chicago butter price in connection with the Class II price and butterfat differential computations also. In order to provide a comparable basis of pricing throughout, the Chicago butter price is substituted for the New York butter price in the Class II price and Class II butterfat differential formulas.

8. Base and excess plan. Handlers proposed amendments to the base and excess plan. They would have producers establish bases in the period of August through January as a means of providing the proper incentive to farmers to produce adequate milk for the short production months. In addition, handlers would change the "base-paying" period from the months of April through August to the months of March through July. Producers supported these changes with the exception that they be given sufficient notice of the revised "base-forming" period. They contended that farmers should be given substantial advance notice in order to change breed-

ing programs and suggested that the handlers' proposal be made effective in August 1957.

The flush production season occurs in the months of April, May, June and July. During 1955, the production of milk exceeded the needs for Class I and reasonable Class I reserve requirements only in the months of May and June. One handler finds it necessary to receive substantial volumes of Class I milk in all months of the year. Production and Class I requirements are approximately identical in August, whereas February and March are months of short production as compared to Class I requirements. It would not be in the interest of an improved production pattern to decrease the incentive to farmers for the production of milk in February and March for a probable increased incentive in August in view of these previously stated conditions. Because the market has little surplus milk in August and production is in close balance with Class I requirements, August should be excluded from the "base-paying" period. Therefore, it is concluded that the "base-paying" period should include the months of April through July.

Producers proposed the unqualified transfer of base upon notification in writing to the market administrator on or before the last day of any month. In addition, if the base were held jointly and such joint holding were terminated, the entire base transferable by any joint holder would be his portion of such jointly held base as indicated by the joint holders. Handlers supported the proposal to remove the present limitations on base transfers provided that in each instance the base would accompany transfer of the herd.

The producers' proposal opens the possibility of abuse which could be highly detrimental to the base-excess plan. One handler in this market continuously disposes of all producer milk as Class I milk because of a deficit producer milk supply at his plant. Producers who deliver to this handler would be able, under the proposed plan, to sell or loan their bases to other producers who deliver to other handlers in the market, without loss of the base price (in this instance the Class I price) for all milk delivered during the base-paying period. A producer delivering milk to another handler and who otherwise would be paid for some excess milk as the result of his original base, thus would receive the base price for some, or perhaps all, of this excess milk under the additional base received from the other producer. In order to preserve the effectiveness of the base plan any transfer should be limited, in these circumstances, to situations where changes in the operation of a farm result because of new ownership, the death, retirement or entry into military service of a producer, or changes in partnership or tenant-landlord arrangement occur. Since the base plan is effective in determining producer payments in only four of the twelve months in each year and since all producers must establish a new base each year, other provisions than those contained in the order, and particularly the proposals considered herein, for the transfer of bases are unnecessary.

9. *Supply-demand adjustment.* Producers proposed that a "supply-demand adjustment" factor be included in the Class I price formula to reflect automatically changes in local supply and demand conditions. They contended that a supply-demand adjustment factor is essential in obtaining increased supplies of producer milk to meet market needs and inducing producers to remain with handlers in this market.

Handlers opposed the inclusion of a supply-demand adjustment factor in the Class I price formula. They stated that an increase in milk supplies for Grade A purposes from this production area is doubtful because of the lack of additional dairy farms.

Although a supply-demand adjustment factor in the pricing formula conceived from local data would be desirable and serve a useful purpose, it is concluded that the development of such a factor from the data available at present, would not reflect the Appalachian marketing conditions adequately and should be delayed until the Appalachian market has had additional experience under the order. Adequate market experience under regulation is desirable as a basis for determining with accuracy the seasonal patterns of production and demand for use in connection with such a formula.

In view of the discussion on the regulation of the Bluefield market under a separate order, as set forth in another section of this decision, no further consideration with respect to Class I pricing in the proposed extension of the Appalachian marketing area is necessary in connection with the proposed amendments to the Appalachian order.

10. Certain changes of an administrative nature should be made. Distribution facilities which formerly were receiving, processing, or bottling plants are in certain circumstances regulated as "fluid milk plants." The designation of these distribution facilities as fluid milk plants unnecessarily involves the classification and allocation of milk and milk products received at these facilities in finished form. It is concluded that the fluid milk plant definition should not include those buildings, premises, or facilities the primary function of which is to hold or store bottled milk or milk products in finished form while in transit for wholesale or retail route distribution.

The pricing provisions of the order should be revised so that the reporting period for the Chicago butter and non-fat dry milk solids price will conform with the period used by the reporting agency within the Department. Therefore, the reporting period designated in the order for any given month is revised to include the period from the 26th day of the immediately preceding month through the 25th day of the current month.

General findings. (a) The proposed marketing agreement and the order as hereby proposed to be amended, and all the terms and conditions thereof will tend to effectuate the declared policy of the act:

(b) The parity prices of milk as determined pursuant to section 2 of the act

are not reasonable in view of the price of feeds, available supplies of feeds and other economic conditions which affect market supply and demand for milk in the marketing area, and the minimum prices specified in the proposed marketing agreement and the order, as hereby proposed to be amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk and be in the public interest; and

(c) The proposed order, as hereby proposed to be amended, will regulate the handling of milk in the same manner as, and will be applicable to persons in the respective classes of industrial and commercial activity specified in, a marketing agreement upon which a hearing has been held.

Rulings on proposed findings and conclusions. Briefs were filed on behalf of producer organizations and certain handlers. The briefs contained statements of fact, proposed findings and conclusions, and arguments with respect to the provisions of the proposed amendments. Every point covered in the briefs were carefully considered along with the evidence in the record in making the findings and reaching the conclusions hereinbefore set forth. To the extent that such suggested findings and conclusions contained in the briefs are inconsistent with the findings and conclusions contained herein, the request to make such findings or to reach such conclusions is denied on the basis of the facts found and stated in connection with the conclusions in this decision.

Recommended marketing agreement and amendments to the order. The following amendments to the order are recommended as the detailed and appropriate means by which the foregoing conclusions may be carried out. The recommended marketing agreement is not included in this decision because the regulatory provisions thereof would be identical with those contained in the order as hereby proposed to be amended:

1. Delete § 923.6 and substitute therefor the following:

§ 923.6 *Appalachian marketing area.* "Appalachian marketing area", hereinafter called the "marketing area", means all the territory geographically located within the perimeters of the counties of Sullivan, Washington and Greene in Tennessee; Washington and Wise in Virginia; and Harlan in Kentucky.

2. Delete § 923.7 (b) and substitute therefor the following: "(b) any plant which ships (1) any milk or skim milk during the months of February through July, or (2) an amount of milk, skim milk, or cream in fluid form in excess of 70,000 pounds for the month during the months of August through January, to a plant qualified pursuant to paragraph (a) of this section, and"

3. At the end of § 923.7 substitute a colon for the period and add the following proviso: "And provided further, That this definition shall not be deemed to include any building, premises or facilities the primary function of which is to hold or store bottled milk or milk prod-

ucts in finished form in transit for wholesale or retail route distribution."

4. In § 923.17, delete the word "August" and substitute therefor the word "July."

5. In § 923.18, delete the word "August" and substitute therefor the word "July."

6. In § 923.31 (b) (1) delete the word "August" and substitute therefor the word "July."

7. Delete § 923.41 (b) and substitute therefor the following:

(b) *Class II milk.* Class II milk shall be all skim milk and butterfat (1) used to produce any product other than those designated as Class I milk pursuant to paragraph (a) of this section; (2) contained in (skim milk only) any product disposed of for livestock feed; (3) dumped (skim milk only) during the months of April, May, June or July; *Provided*, That the market administrator is given not less than 6 hours' notice of the handler's intention to make such disposition; (4) contained in inventory of products designated as Class I milk pursuant to paragraph (a) of this section on hand at the end of the month; and (5) in shrinkage assigned to Class II pursuant to § 923.42.

8. In § 923.44 (c), delete the figure "50" and substitute therefor the figure "150". In the same paragraph delete the phrase "nearest point in the marketing area" and substitute therefor "city limits of Kingsport, Tennessee."

9. Delete § 923.46 (a) (3) and substitute therefor the following:

(3) Subtract from the remaining pounds of skim milk in Class II milk, the pounds of skim milk in other source milk (that derived from milk priced under another Federal order to be subtracted last): *Provided*, That if the receipts of skim milk in other source milk are greater than the remaining pounds of skim milk in Class II milk, an amount equal to the difference shall be subtracted from the pounds of skim milk in Class I milk;

10. Delete from § 923.50 (b) the phrase "during the delivery period" and substitute therefor the phrase "for the period from the 26th day of the immediately preceding month to the 25th day of the current month."

11. Delete § 923.51 (b) (2) (i) and substitute therefor the following:

(i) Multiply the Chicago butter price by 4.8.

12. Delete § 923.52 (b) and substitute therefor the following:

(b) *Class II price.* Multiply the Chicago butter price by 0.11, and round to the nearest one-tenth cent.

13. In § 923.71, delete the word "September" and substitute therefor the word "August."

14. In § 923.72, delete the word "August" and substitute therefor the word "July."

15. Delete the proviso in § 923.72 (e) and substitute therefor the following: "Provided, That if such resulting value is greater than an amount computed by multiplying the pounds of such base

milk by the Class I price, such value in excess thereof shall be added to the value computed pursuant to paragraph (d) of this section to the extent that the excess price shall not exceed the base price as calculated herein. Any additional value remaining shall be prorated to the respective volumes of base milk and excess milk."

16. Add to § 923.72 (g) after the word "section," the following phrase "and the proviso of paragraph (e) of this section."

17. In § 923.81, delete the word "August" and substitute therefor the word "July."

18. In § 923.90 (a), delete the words "September through March" and substitute therefor the words "August through March" and in the same paragraph delete the words "April through August" and substitute therefor the words "April through July."

Proposed marketing agreement and order for the Bluefield marketing area—Statement of issues. The material issues of record with respect to the proposed marketing agreement and order regulating the handling of milk in the Bluefield marketing area related to:

1. Whether the handling of milk in the market is in the current of interstate commerce or directly burdens, obstructs or affects interstate commerce in milk or its products;

2. Whether marketing conditions justify the issuance of a marketing agreement or order; and

3. If an order is issued what its provisions should be with respect to:

(a) The scope of regulation;

(b) The classification of milk;

(c) The level and method of determining class prices;

(d) The method to be used in distributing proceeds to producers; and

(e) Administrative provisions.

Findings and conclusions. Upon the evidence adduced at the hearing and the record thereof, the following findings and conclusions are hereby made with respect to the proposed marketing agreement and order regulating the handling of milk in the Bluefield marketing area:

Commerce in milk. The handling of milk in the Bluefield marketing area, as defined herein, is in the current of interstate commerce or directly burdens, obstructs or affects interstate commerce in milk and milk products.

The marketing area defined in the proposed order includes the counties of Mercer and McDowell in the State of West Virginia, and Tazewell County in Virginia. There are continuous and substantial movements of milk across state lines both in the procurement of milk from producers supplying this marketing area and the sale of fluid milk and milk products by handlers to consumers.

Milk produced on farms in the States of Kentucky, Ohio, Virginia, and West Virginia is inextricably commingled at a milk distributing plant located at Welch, West Virginia. Milk produced in Virginia and West Virginia is received and commingled at plants located at Bluefield, Virginia and Bluefield, West Virginia. Such milk is bottled and distributed in fluid form throughout the marketing area. Milk from farms in

Kentucky and Ohio is sent to a bottling plant in the West Virginia segment of the proposed marketing area and the bottled products then are returned to Kentucky and Ohio for distribution to consumers. Similarly, milk produced on farms in Virginia is sent to a bottling plant at Bluefield, West Virginia, and the bottled products are returned for distribution in Virginia. Milk produced within the State of West Virginia and sold in fluid form within that portion of the marketing area in West Virginia is in direct competition with milk produced in other States. The same situation exists with respect to milk produced within the State of Virginia and sold in fluid form within that portion of the marketing area in Virginia.

Fluid milk bottled in Bluefield, Virginia, is distributed to consumers in Pike County, Kentucky, and in McDowell and Mercer counties in West Virginia. Fluid milk and fluid milk products move from plants in Welch and Bluefield, West Virginia, to wholesale and retail outlets in Boyd, Floyd, and Pike counties, Kentucky; Bland, Buchanan, Giles, and Tazewell counties, Virginia; and Cabell County, Ohio. One handler, who would be regulated under the proposed order receives manufactured milk products from a company-affiliated plant located in the Tri-State market (a federally-regulated area) for distribution in the Bluefield area. On a supplemental supply basis substantial quantities of milk produced in the states of Maryland, Ohio, and Wisconsin are frequently imported by handlers in the Bluefield marketing area to meet a portion of the bottled milk requirements during the low production season of the year.

The seasonal reserve of locally-produced Grade A milk is used in the manufacture of cottage cheese, ice cream, nonfat dry milk solids, and condensed milk. These products, made from producer milk, are manufactured in Virginia and West Virginia plants and are sold in several States within this section of the country.

Need for regulation. The marketing and pricing conditions in the Bluefield marketing area require the issuance of a milk marketing agreement and order to establish and maintain orderly marketing conditions. Such an order will tend to effectuate the declared policy of the Agricultural Marketing Agreement Act of 1937, as amended. For reasons stated in this decision the regulation should be separate from those covering the Appalachian and Tri-State marketing areas.

At least six pricing plans for milk delivered by farmers are operative in the Bluefield market. In addition, the variations in milk classification methods used by handlers affect the relative prices paid to the producers. The pricing and classification plans used have caused wide disparity in returns to producers.

Certain milk distributed in this area is classified for pricing purposes pursuant to the provisions of the Federal milk orders for the Appalachian, Clarksburg, and Tri-State marketing areas. An order issued by the Virginia State Milk Commission applies to milk distributed from a Bluefield, West Virginia, plant into Giles County, Virginia. These

regulatory pricing plans which affect milk marketing in this area have varying methods of milk classification for pricing purposes.

Pricing plans devised by handlers (as hereinafter defined) utilize still different methods of classification. One handler, who distributes fluid milk products in this area from a plant located in West Virginia, has established three different classes for pricing purposes, as follows:

(1) Class I—fluid milk products distributed locally (Bluefield, West Virginia and vicinity);

(2) Class I (Kentucky)—fluid milk products distributed in Pike County, Kentucky, and milk separated for butter-milk, chocolate milk drinks, cottage cheese, and for the standardization of fluid milk; and

(3) A class for surplus milk.

This method of pricing has resulted in fluid milk products in Class I distributed by such handler in the proposed marketing area being priced as much as \$1.22 above the price for fluid milk products distributed from the same plant to outlets in Kentucky. The Class I (Kentucky) price of this handler is based on, and equivalent to, the Huntington district Class I price under the Tri-State order. Also, this handler purchases milk produced in Virginia and distributes milk in Virginia under the producer and resale price regulations of the Virginia State Milk Commission for the Giles County, Virginia, market. Milk produced under regulation of the Virginia State Milk Commission customarily is priced higher than that sold locally in the Bluefield market.

Another handler, with a plant located in Virginia, has established three classes for pricing purposes, as follows: (1) Class I—fluid milk products distributed in Virginia; (2) Class IA—fluid milk products distributed outside the State of Virginia, buttermilk, and ice cream; and (3) a class for surplus milk. Under this method of pricing fluid milk products in Class I have been priced as high as \$6.05 per hundredweight (4.0 percent butterfat basis) when at the same time fluid milk products in Class IA were priced at \$4.11 per hundredweight. The Class IA price customarily has been fixed at the level of the Tri-State order Class I price for the Huntington district (adjusted to a 4.0 percent butterfat basis by using the "producer" rather than the "handler" butterfat differential under such order), less 25 cents.

A third handler, with a plant located in West Virginia, prices all his milk as Class I, except for small amounts of seasonal surplus.

The fourth handler in the market is regulated under the provisions of the Tri-State order and thus is required to follow a classification and price plan which differs from the others as described above.

The four local handlers, to which reference has been made, were formerly regulated under a producer price order of the Virginia State Milk Commission which was applicable to the "Southwest Virginia" milk market. They have not been regulated by the Virginia control agency since late 1953, but have continued some aspects of the regulatory

pricing program on a voluntary basis. However, the variations in pricing plans for fluid milk distributed in the Bluefield area have resulted in producer returns which vary in excess of \$1.00 per hundredweight for milk produced by farmers with farms located in the same production area. In some instances differences in returns per hundredweight occurred among producers delivering to the same handler in the same month.

The "stated Class I prices of such handlers have varied from \$4.08 to \$6.05 per hundredweight (4.0 percent butterfat basis) for bottled milk products distributed competitively in the same areas during the same periods of time. In addition, different methods of paying for butterfat above and below 4.0 percent are used and there is no uniformity in the computation of producer butterfat differentials. Because of these factors, together with the classification plans used, the stated Class I prices of unregulated handlers do not reflect with accuracy the level of returns actually received by producers for milk used in bottled milk products. This lack of uniformity in pricing and classification techniques has caused inequities among producers.

It is noted further that at least three types of seasonal incentive programs have been incorporated in the prevailing price plans used by those handlers in the market who are not under some regulatory program, notably the following: (1) Variations of "the base and excess" plan, (2) a modified "Louisville" plan, and (3) combination of a modified "Louisville" plan and "base and excess" plan. Such payment plans also have resulted in inequities among producers.

Handlers using the base and excess plan as a means of obtaining a better seasonal pattern of production frequently changed the period designated as the "base-forming months" without prior notification to the producers. One of these plans provides for some producer milk to be priced as "excess" even in the short production season when the market as a whole is customarily short of milk supplies.

The modified "Louisville" plan was instituted by one handler in 1954, when \$0.75 per hundredweight was deducted from the producers' price in the months of April, May, and June, and the same amount per hundredweight added to the price in the months of October, November, and December. Order proponents contend that this resulted in an arbitrary net reduction in returns to such handler's producers since the fall rate of milk production normally is less than in April, May, and June. Producers claim it was their understanding that they would receive in the fall months the full amount of money represented by the deductions made in April, May, and June.

In 1955, the plan was changed without prior notification to the producers and deductions from the producers' price of \$0.50 per hundredweight in April and May, and \$0.55 in June were made. The amounts subsequently added to the producer's price were \$0.50 per hundredweight in October, \$0.75 in November, and \$0.50 in December. In addition, a

"base and excess" plan was instituted in the latter year without any prior notification to producers as to the base-forming period to be used. The changes made in 1955 also resulted in arbitrary reductions in returns to the producers delivering to such handler.

Another disruptive aspect of the latter pricing practice was allocation of varying amounts of surplus among individual producers. Some producers were allocated as much as 40 percent surplus while in the case of other producers no milk was so allocated. This disproportionate distribution of surplus caused a high degree of disparity in prices among producers since the difference between such handler's Class I and surplus prices has been as high as \$2.50 per hundredweight.

Many producers in the Bluefield marketing area have no effective means of insuring the accuracy of the weights and tests of their deliveries of milk to handlers. The testing programs of the cooperative and handlers seldom agree on tests made of producers' milk. Producers testified that the cooperative's tests are consistently higher, but that they usually have been unable to obtain adjustments based on the differences shown. In addition, those handlers in the market not under any regulatory program do not permit auditing of their records for the purpose of establishing (1) the accuracy of the utilization of producer receipts according to the classification plan in use, and (2) the appropriate volumes of milk to be paid for as base milk and excess milk. One handler has not paid the cooperative the dues deducted from members and has been delinquent in making payments to cooperative members for their milk.

In summary, the proponent cooperative association has been unable to bargain with handlers concerning prices to be paid for milk received from farmers. Prices paid to producers throughout the Bluefield marketing area are generally at the option of the handler. There is no uniform classification plan whereby farmers supplying the Bluefield marketing area are assured of payment for their milk in accordance with its use. Handlers arbitrarily determine producer butterfat differentials for milk above or below 4 percent in butterfat. There is little uniformity in the seasonal incentive programs now used by handlers. As the result of the producers' inability to obtain satisfactory pricing plans for milk in the Bluefield area plants some producers have shifted their deliveries of milk from this market to plants in Winston-Salem, North Carolina; Charleston, West Virginia; and the Appalachian marketing area. Since the Bluefield market is in a deficit milk production area and supplies customarily have been fairly short in relation to the Class I demand any transfer of milk from the market seriously jeopardizes the delivery of the necessary requirements of fluid milk to this market.

The Federal milk marketing order proposed herein for Bluefield will implement the declared Congressional policy of establishing and maintaining orderly marketing conditions by providing:

(a) A regular and dependable method for determining prices to producers at levels contemplated under the Agricultural Marketing Agreement Act, as amended;

(b) The establishment of uniform prices to handlers for milk received from producers according to a classified price plan based upon the utilization made of the milk;

(c) An impartial audit of handler's records of receipts and utilization to further insure uniform prices for milk purchased;

(d) A means for insuring accurate weights and tests of milk;

(e) Uniform returns to producers supplying the market and an equitable sharing by all producers of the lower returns for sale of reserve milk;

(f) Uniform rules for the operation of seasonal incentive which will encourage producers to adjust production seasonally in closer alignment with the relatively even monthly needs for inspected milk; and

(g) Market-wide information on receipts, sales, and other data relating to milk marketing in the area.

Marketing area. The Bluefield marketing area should include all the territory within the counties of McDowell and Mercer in West Virginia, and Tazewell in Virginia.

Producers proposed that the counties of Buchanan and Tazewell in Virginia; McDowell and Mercer in West Virginia; and Floyd and Pike in Kentucky be either (1) established as a separate district within the present Appalachian marketing area, or (2) established as a marketing area to be known as the "Bluefield marketing area" for regulation under a separate marketing order.

One handler proposal would enlarge the marketing area to include in addition to the above-named counties, as proposed by producers, the counties of Boone, Fayette, Greenbrier, Kanawha, Logan, Monroe, Raleigh, Summers, and Wyoming, in West Virginia. This handler, upon further consideration, abandoned the request for the addition of Boone, Fayette, Greenbrier, Kanawha, Monroe, Raleigh, and Summers counties. The same proponent further modified his proposal to include Lincoln, McDowell, Mercer, and Mingo counties in West Virginia.

Another proposal submitted by handlers would adopt all of the counties included in the above handler's final proposal and in addition would include Tazewell County, Virginia, and Floyd and Pike counties, Kentucky. It was further proposed that this proposed marketing area be given consideration as an addition to the Huntington district of the Tri-State marketing area, as an alternative to the two producer proposals.

The problems complained of by the producer proponents of the order center primarily around the handling of milk in plants which either are located in or serve McDowell and Mercer counties, West Virginia. Plants located in McDowell and Mercer counties also handle a large portion of the fluid milk distributed within Tazewell County, Virginia. These three counties consti-

tute perhaps the most populous area in the entire region under consideration and to a large extent are separated from other counties proposed for regulation by mountains and intervening areas which are only sparsely populated. The principal communities located in these counties are Bluefield, Princeton, and Welch, West Virginia, and the city of Bluefield, Virginia. Because of the numerous smaller communities scattered throughout the counties, it appears that orderly marketing can be best achieved by regulating the counties in their entirety rather than to specify particular communities for regulation.

Milk sold for consumption as Grade A milk within all three counties of McDowell, Mercer, and Tazewell must be approved by local health authorities under ordinances, practices, and procedures patterned after the model milk ordinance of the United States Public Health Service. Reciprocal agreements on farm inspections and on finished Grade A milk products for distributors prevail among the area health authorities. Current ratings of the United States Public Health Service are recognized by health authorities as a basis for acceptance of supplemental, or emergency, supplies of milk from distant plant sources. The degree of similarity of minimum health standards throughout the area justifies the uniform application of prices to all inspected milk marketed in these counties.

As previously stated, producers proposed that Buchanan County, Virginia, and Floyd and Pike counties, Kentucky, also be included in the marketing area. There is little, if any, milk distributed in Buchanan County which would not be under the regulation of either the Appalachian or Bluefield order, without the inclusion of such county in the marketing area. Sales in this country are quite limited because of its rural character. For these reasons it is not necessary to include Buchanan County within either of the defined marketing areas. The reasons for not including Floyd and Pike counties in Kentucky are discussed below in conjunction with the consideration of other additional territory as proposed by handlers.

The relatively populous counties of Logan, Mingo, and Wyoming and the sparsely populated county of Lincoln, in West Virginia, are in a region where little milk is produced locally for distribution in fluid form. This is a coal mining region and extremely deficit as to its own milk supply. Milk is transported rather long distances from the markets of Huntington, West Virginia; Athens, Ohio; Beckley, West Virginia; Bluefield, West Virginia; and Charleston, West Virginia, to serve local needs for fluid milk. The milk imported into this area from Huntington and Athens is under regulation of the Federal milk order covering those communities (Tri-State Order No. 72), and the milk from Beckley has been under the regulation of a recently issued milk order for the Clarksburg marketing area (Clarksburg Order No. 109). Charleston handlers have limited sales in this area which are of minor competitive importance. The issuance of a Bluefield order for the

marketing area as adopted above would bring under regulation nearly all the remaining milk distributed in these counties.

A situation similar to that noted for such four counties in West Virginia, applies also in the case of Floyd and Pike counties, Kentucky. The milk imported into this area from Huntington and Athens is under regulation of the Federal milk order covering these communities. Similarly, milk imported into this area from Big Stone Gap, Virginia, and Kingsport, Tennessee, is under regulation of the Federal milk order covering the Appalachian market. The issuance of a Bluefield order for the marketing area as adopted above would bring under regulation nearly all the remaining milk distributed in these counties.

It should be noted that the inclusion of any of the areas discussed above in addition to the counties of McDowell and Mercer, West Virginia, and Tazewell, Virginia, would have the effect of transferring plants at Huntington, West Virginia, and Athens, Ohio, now regulated under the Tri-State order, to regulation under the Bluefield order unless some modification of the present terms of the Tri-State order were made to prevent such a transfer. Regulation of such plants under the Bluefield order would not be in the interest of orderly marketing within the Tri-State marketing area. As above stated, the inclusion of the additional counties probably also would involve a portion of the Charleston market under regulation, while a greater portion of the milk for this substantial market would remain unregulated. The application of a Bluefield order in this manner would create difficult competitive problems for the regulated milk originating at Charleston plants and is not necessary to achieve orderly marketing for producers who have primary interest in the proposed Bluefield regulation. Handlers testified that if their Class I prices were reasonably aligned with those effective under the Tri-State order no competitive disadvantage resulting from the purchase of milk from producers would result from the omission of such counties from the defined marketing area since the bulk of the milk distributed in these counties, other than that distributed by handlers who would be regulated under the Bluefield order, is at present priced under the Tri-State order. The inclusion of these counties in the defined marketing area is not required to achieve orderly marketing conditions for the producers primarily concerned with the Bluefield market plants.

The milk distributors who would be regulated under a separate Bluefield order are in competition throughout the particular counties to be regulated. In addition, some milk is distributed within this area from plants located outside the defined area at Beckley, West Virginia, and Athens, Ohio. The operator of the Beckley plant might also become a handler under the regulation. Although some milk is distributed in Tazewell County by persons regulated as handlers under the order currently in effect in the Appalachian marketing area, no milk is distributed within the confines of the

latter marketing area by persons who would become handlers under a separate order for the Bluefield marketing area. It is noted also that the points outside the defined area where there is some competition between handlers to be regulated by a Bluefield order and those currently regulated under the Appalachian order are not numerous. There is substantially greater competition in outside markets between Bluefield handlers and distributors in the Tri-State market and Beckley. From the standpoint of route competition there is insufficient relationship between the Appalachian and Bluefield markets to indicate the propriety of a single regulation for handlers in both markets. Further support for this view is found in the tendency for Bluefield handlers to seek new markets generally to the west and north of Bluefield, West Virginia, rather than to compete more vigorously in Bristol and other markets to the south regulated under the Appalachian order.

Milk subject to regulation. Provision should be made in the order to designate clearly what milk will be subject to the pricing provisions of the order. For this reason, definitions of "handler", "plant" (various types), "producer", "producer milk" and "other source milk" should be provided.

A "handler" is defined to be the operator of an "approved plant". The handler is the person to whom the provisions of the order are applicable. The handler receives the milk of producers and thus must be held responsible for reporting its receipt and utilization. He is the one responsible for paying producers not less than the specified minimum prices. In case a person operates more than one plant at which milk is to be priced, he should be a handler with respect to the combined operations of such plants. If a handler also operates an unregulated plant(s), this definition is not intended to include such person in his capacity as an operator of such type of plant(s). Producer-handlers and other operators of approved plants which do not qualify as "fluid milk plants" (as discussed below) should be considered handlers in order that such persons shall report to the market administrator as may be necessary to determine their status at any given time.

The minimum class prices of the order should apply to that milk eligible for distribution as Grade A milk in the marketing area which is received from dairy farmers at plants primarily engaged in supplying fluid milk for sale on retail and wholesale routes in the marketing area. Such plants are defined as "fluid milk plants." More specifically, a fluid milk plant under the attached order is any plant from which a volume of Class I milk equal to either an average of more than 1,000 pounds per day, or more than 2.0 percent of the approved milk of such plant, is disposed of during the month on routes (including routes operated by vendors) or through plant stores or retail or wholesale outlets (except other fluid milk plants) located in the marketing area.

The order should provide also delivery performance standards for plants from which no wholesale or retail routes are

operated, but which represent sources of supply for the market. There are two broad categories of plants that generally provide supplemental supplies of milk for fluid milk markets. One category includes those plants which constitute regular sources of supply and are closely associated with the market by receiving milk subject to the farm inspection of local health authorities. Although there are no such plants serving the Bluefield marketing area at present some provision should be made for the regulation of plants of this type that might become closely associated with the market in the future. Plants of this type are a normal part of the milk procurement facilities in several adjacent markets, and nothing in this order will preclude any plant wherever located from serving the market in the future should a need for its supplies arise. It is concluded that any plant in this category should be included within the definition of a fluid milk plant throughout the year whenever it may become a regular source of supply for any plant from which wholesale or retail routes are operated.

The second category of supply plants are those receiving milk not under the routine farm inspection of health authorities in the market. The Bluefield market receives supplemental milk supplies from a number of plants of this type. These plants normally provide supplemental milk to plants in various other fluid milk markets as well, and their shipments to the Bluefield area for Class I use are primarily seasonal in nature.

Producers proposed that the latter type of plant be included in the definition of a fluid milk plant when any such plant supplies to the market a monthly total of 70,000 pounds (or more) of milk for each of the months of August through January, inclusive. Producers contended that such plants are a threat to the stability of the market because they are able to deliver large quantities of milk during the low production months from other sources and locations where no minimum price regulations are in effect.

It is quite possible that as a result of handlers receiving milk from outside the order in unlimited quantities a situation could arise in which a significant portion of the market supply of milk would not be subject in any way to the pricing and payment provisions of the order. This could result in (1) a portion of the market supply being procured on a "flat price" basis without regard to use of milk as distinguished from the classified price plan provided in the proposed order, (2) limiting the effectiveness of the pricing and payment provisions of the order as a means of encouraging farmers to produce a year-round supply of pure and wholesome milk for the Bluefield market, and (3) incentive to handlers to use milk from sources outside regulation in preference to seeking an adequate supply of producer milk in all months. These factors would create a constant threat to the entire classified price plan.

It is concluded that such plants should be regulated when they furnish milk, skim milk or cream in fluid form in ex-

cess of 70,000 pounds (approximately two full tank loads) per month for the months of August through January, inclusive. In addition, these plants should be brought under regulation and made fully subject to the pricing provisions of the order when any shipments are made to fluid milk plants for the months of February through July, inclusive. This provision is similar to the comparable provision of the Appalachian order and is reasonable in view of the similarity of handler operations in the two markets. Milk subject to other orders issued pursuant to the act should not be made subject to the pricing provisions of the order at any time in order that double regulation may be avoided.

Minor quantities of milk are distributed on wholesale and retail routes from plants located outside the marketing area. Such plants generally are receiving supplies produced at considerable distances from the Bluefield milk production area and are primarily in competition with milk of unregulated handlers in markets outside the Bluefield marketing area. Regulation of such plants might place them in an uneconomic and unfavorable competitive position with respect to sales in their home markets. As long as the limit as to sales such a plant may make in the marketing area are kept relatively low, the volume of unpriced milk in the market would not present a disruptive force. It is concluded that this limit should be placed at 2.0 percent of the Grade A milk received at such plant from all sources, or an average of 1,000 pounds of Class I milk a day, whichever is less. Any plant from which a volume of Class I milk equal to more than 1,000 pounds per day, or 2.0 percent of its receipts of Grade A milk, skim milk or cream, is disposed of in the marketing area should be designated as a fluid milk plant and be made fully subject to regulation. This limited exemption is similar to that currently contained in the Appalachian order.

Any plant from which Class I milk is distributed in the marketing area, but which does not meet the standards for a fluid milk plant, should be defined as an "approved plant" and be required to file reports and submit to audits by the market administrator in order that he may verify the status of such plant.

"Producer" should be defined as any person, other than a "producer-handler", who produces milk under a dairy farm inspection permit issued by a duly constituted health authority which is customarily received at a fluid milk plant. Provision should be made, however, so that the milk of producers regularly received at a fluid milk plant may be diverted for the account of a handler to a nonfluid milk plant at any time during April, May, June and July, and on not more than 15 days during other months, and still be permitted to retain status as producer milk under the order. This will permit milk regularly associated with the market to be diverted to manufacturers during periods of flush production and over week-ends and holidays when supply and demand relationships may require some reserve and surplus milk to be manufactured in plants not regulated

by the order. Producers whose milk is so diverted will continue to receive the uniform price under the order and their milk will be available for fluid use when needed. Diverted milk shall be deemed to have been received at the plant from which it was diverted.

"Producer-handler" should be defined as a person who operates a fluid milk plant but handles no milk from dairy farmers other than milk of his own production. A producer-handler should be subject to the order only to the extent that he must submit reports to the market administrator as required and maintain and make available to the market administrator, accounts, records, and facilities, so that the market administrator may verify that such person meets the definition of producer-handler. It appears unnecessary to require under the order that a producer-handler pay any particular price for milk produced on his own farm.

A producer-handler may receive milk from other handlers and still maintain his status as a producer-handler. However, the classification provisions of the proposed order should provide that any milk, skim milk, or cream transferred by a handler to a producer-handler will be Class I milk. Supplemental supplies of milk which may be obtained from other handlers, by virtue of the type of operation involved, may be presumed to be needed by the producer-handler for fluid use and should be classified in the supplying handler's plant as Class I milk. Any milk which a handler receives from a producer-handler would be "other source milk" and would, therefore, be allocated to the lowest class utilization at the fluid milk plant(s) of a handler after the allocation of shrinkage on producer milk. This method of allocating producer-handler milk will insure producers' priority on Class I sales made by the handler to whom milk is supplied. The producer-handler who, by being exempt, enjoys the full advantage of his fluid milk sales, should not also share in the Class I market of other producers.

"Other source milk" should be defined as all skim milk and butterfat contained in products utilized by the handler in his operations, except milk from producers, inventories, and other Class I products received from other fluid milk plants. This includes any non-fluid milk product from any source, including those produced at the handler's plant during the same or an earlier month which are reprocessed or converted to other products during the month in the plant. Defining other source milk in this manner will insure uniformity among all handlers under the allocation and pricing provisions of the order.

Classification of milk. Milk received by regulated handlers should be classified on the basis of the form in which, or the purpose for which, it is used, as either "Class I milk" or "Class II milk."

A classification plan of this type will insure that minimum prices for milk will be uniform among handlers according to use, that a price may be fixed for the milk disposed of as Class I at a level that will bring forth an adequate supply of pure and wholesome milk, and that a necessary reserve of quality milk may be

maintained at all times (and used at prices in line with its value when processed into manufactured dairy products) without disrupting marketing and pricing conditions within the established marketing area.

The products which should be included in Class I milk are those distributed to the consumer in fluid form and required by health authorities in the proposed marketing area to be obtained from milk or milk products from approved "Grade A" sources. The extra cost of getting quality milk produced and delivered to the market in the condition and quantities required makes it necessary to provide a price for milk used in Class I products somewhat above the ungraded, or manufacturing, milk price. This higher price should be at such a level that it will yield a uniform (blended) price to producers that will encourage the production of sufficient milk to meet market needs.

Reserve milk not needed seasonally or at other times for Class I use must be disposed of for use in manufactured products. These products are less perishable, are not required to be made from inspected milk, and must be sold in competition with products made from unapproved milk produced throughout the United States. Milk so used should be classified as Class II milk and priced in accordance with its value in such outlets.

In accordance with these standards, Class I milk should comprise all skim milk (including concentrated or reconstituted nonfat milk solids) and butterfat (1) disposed of in the form of milk, skim milk, buttermilk, milk drinks (plain or flavored), cream (except frozen cream), and any mixture in fluid form of skim milk and cream (except ice cream mix, eggnog, and sterilized products contained in hermetically sealed containers); and (2) not accounted for as Class II milk.

Class I products which contain concentrated skim milk solids such as skim milk drinks to which extra solids have been added or concentrated whole milk disposed of for fluid use, should be included under the Class I milk definition. Products such as evaporated or condensed milk packaged in bulk or in hermetically sealed cans should not be considered as concentrated milk.

Skim milk and butterfat are not used in most products in the same proportions as contained in the milk received from producers, and therefore should be classified separately according to their separate uses. The skim milk and butterfat content of milk products, received and disposed of by a handler, can be determined through certain testing procedures. Some of these products, such as ice cream and cottage cheese, present a difficult problem of testing in that some of the water contained in the milk has been removed. It is desirable in the case of such products to provide an acceptable means of ascertaining the amount of skim milk and butterfat contained in, or used to produce, these products. This may be accomplished through the use of adequate plant records made available to the market administrator or by means of standard conversion factors of skim

milk and butterfat used to produce such products. The accounting procedure to be used in the case of any condensed milk product should be based on the pounds of milk or skim milk required to produce such product.

Each handler must be held responsible for a full accounting of all his receipts of skim milk or butterfat in any form. The handler who first receives the milk from producers should be responsible to the market administrator to establish the classification of, and to make payments to producers for, such milk. Except for such limited quantities of shrinkage which may under certain conditions (as set forth elsewhere in this decision) be classified in Class II, all skim milk and butterfat which is received and for which the handler cannot establish utilization should be classified as Class I milk. This provision is necessary to remove any advantage to handlers who fail to keep complete and accurate records and to assure that producers receive full value for their milk on the basis of its use.

All skim milk and butterfat used to produce products other than those classified in Class I milk should be Class II milk. Included as Class II milk are products such as ice cream, ice cream mix and other frozen desserts and mixes; butter, cheese, including cottage cheese; evaporated and condensed milk (plain and sweetened); non-fat dry milk solids, dry whole milk; condensed or dry buttermilk; and any other products not specified as Class I milk.

Cream which is frozen and placed in storage should be classified as Class II milk. Such cream is intended primarily for use in ice cream mixes. Any frozen cream or other Class II products which are used later in a fluid milk plant would be considered as other source milk at the time of such use and assigned to the lowest priced utilization in the plant.

A handler proposed that Class II milk include all skim milk and butterfat disposed of as livestock feed, and skim milk that is dumped after prior notification to and opportunity for verification by the market administrator. This handler testified that (1) little recovery value is obtained from fluid milk products returned to the handler's plant and sold as livestock feed, and (2) surplus milk is separated and the skim milk dumped for lack of manufacturing facilities to use all surplus milk.

Milk returned to plants from handler routes in this market frequently cannot be processed for resale as other dairy products. Because of the limited facilities in most handler plants for processing manufactured milk products seasonal surplus in small quantities from time to time does not warrant costs associated with disposition to unregulated plants for manufacture. It is concluded that skim milk contained in any product disposed of as animal feed, and skim milk which is dumped during the months of April, May, June and July, should be Class II milk. Because dumping can be verified only at the time the action is taken the handler should be required to give advance notice to the market administrator so that adequate proof of dumping will be possible.

Handlers have inventories of milk and milk products at the beginning and end of each month which enter into the accounting for current receipts and utilization. Accounting procedure will be facilitated by providing that ending inventories of all products designated as Class I milk, regardless of whether such products are held in bulk or in packages, be classified in Class II milk. Inventories of such products on hand will then be subtracted from Class II use the following month. If any products which are classified as Class II milk because they are held in inventories or later used in Class I, the higher valued use should be reflected to producers unless producer milk was not available for such use.

Inventories of products designated as Class I milk on hand at a fluid milk plant at the beginning of any month during which such plant becomes a fluid milk plant for the first time should likewise be subtracted from the Class II utilization of such plant. This will preserve the priority of assignment of current producer receipts to current Class I use for each month.

As in the case of the Appalachian market the question of multiple reporting periods for allocation purposes was considered. The testimony offered primarily with respect to the proposed revision of the Appalachian order is equally applicable to the Bluefield market. The findings and conclusions on this matter, previously set forth in this decision, likewise are applicable in connection with the Bluefield market and therefore are not repeated in this portion of the decision.

The proposals on the amounts of shrinkage to be allowed in Class II milk under a Bluefield order were similar to those previously considered in this decision in connection with proposed amendments to the Appalachian order. For the same reasons presented earlier producers opposed the proposals made by handlers.

As in the Appalachian market fluid milk operations take the bulk of the milk delivered by dairy farmers. A high degree of similarity in plant operations exists between the two markets. The classification, allocation and transfer provisions of the two orders are substantially the same. The class prices adopted for the Bluefield market contemplate similar treatment in accounting for and classifying shrinkage. It is concluded from the above that shrinkage should be determined on the same basis as is provided in the Appalachian order. Shrinkage not in excess of 2 percent of the handler's receipts of producer and other source milk should be prorated between producer and other source milk on the basis of the pounds received from each source. Shrinkage not in excess of 2 percent of total receipts of producer milk and other source milk used to produce a Class II product should be classified as Class II milk, and any shrinkage in excess of this quantity should be classified as Class I milk. None of the shrinkage should be assigned to milk received from other fluid milk plants because shrinkage on such milk is allowed to the transferor-handler.

Classification of butterfat and skim milk used in the production of Class II milk items should be considered to have been established when the product is made. Classification of Class I milk should be established when the butterfat or skim milk is disposed of by the handler. However, since some Class I items may be disposed of to other plants for processing, specific classification procedures should be prescribed for milk transferred between plants.

Milk, skim milk, cream, or other products designated as Class I milk transferred by a handler to the plant of another handler, except that of a producer-handler, should be classified as Class I milk unless both handlers claim in their reports to the market administrator that such milk should be classified as Class II milk. However, in the latter event sufficient Class II utilization must be available at the transferee-plant after prior allocation of shrinkage and other source milk. Furthermore, the assignment to classes must be such as will result in the maximum amount of producer milk of both handlers being assigned to Class I milk. These actions will insure that the highest-valued uses should be assigned first to these producers regularly supplying the market.

Producers proposed that milk which is diverted from fluid milk plants to nonfluid milk plants within a range of 100 miles of the marketing area be considered as Class II milk. Reference was made to transfers of surplus milk from a Bluefield plant to a manufacturing milk plant approximately 70 miles away.

One handler proposed that surplus milk which is transported from a fluid milk plant to a nonfluid milk plant within a range of 250 miles of the transferor-plant be considered Class II milk. Surplus milk from this handler's plant has been moved at times to a manufacturing milk plant approximately 190 miles distant.

It is reasonable and necessary to assure that producer milk will be paid for in accordance with its utilization. This requires verification of the receipts and utilization of milk at nonfluid milk plants which receive producer milk diverted from fluid milk plants. When it is necessary to travel considerable distances to verify the use of milk in nonfluid milk plants, there is excessive administrative expense. At least four nonfluid milk plants within a distance of 200 miles of Bluefield, West Virginia, are available to serve as the major outlets for surplus milk. The costs involved in transporting milk, skim milk, and cream in bulk form are such that generally it would not be economically feasible to move milk in excess of such distance for Class II disposition.

Therefore, it is concluded that milk, skim milk, and cream disposed of to a nonfluid milk plant, including milk which is diverted (sent directly to the nonfluid milk plant from the producer's farm) should be classified as Class I milk, unless the following conditions are met: (1) The operator of a nonfluid milk plant, if requested, must make his books and records available to the market administrator for the purpose of verifying the receipts and utilization of milk in such

nonfluid milk plant, (2) the nonfluid milk plant is located less than 200 miles, by the shortest hard-surfaced highway distance, from Bluefield, West Virginia, (3) the nonfluid milk plant used, during the month, an equivalent amount of skim milk and butterfat in the product use indicated, and (4) in the case of cream the transfer is made without the Grade A certification of any health authority. For reasons previously stated all Class I milk and milk products transferred to a producer-handler should not be subject to the above reclassification.

One handler proposed that a provision be included under which milk custom-bottled by a handler on behalf of an out-of-area plant could be made exempt from the pooling and pricing provisions of the Bluefield order. Specifically, it was requested that, in an emergency, milk moved from Clarksburg, West Virginia, to a plant at Beckley, West Virginia for bottling purposes and then returned to Clarksburg for sale in the Clarksburg marketing area be deducted from Class I milk in allocation at the Beckley plant. Following the classification plan of the present Appalachian order, such a receipt of milk at Beckley (if the Beckley plant were regulated under the Appalachian order) would be handled as a receipt of "other source milk" and allocated in series beginning with the lowest-priced class. The exemption, under the proposal, would apply only to a quantity of milk equivalent to that returned to the Clarksburg market.

In support of the proposal proponent indicated the possibility that its plant located at Clarksburg may be subject to relocation because the land on which it is situated may be purchased by the State of West Virginia for use as a road or highway. The land has been surveyed by the state and appears to be involved in one of two highway routes under consideration. Thus, it may be necessary to process milk at another location pending the erection of a new plant by the company to serve the Clarksburg market.

A custom-bottling provision in the Bluefield order may be an appropriate method of relieving hardship in an emergency situation, as described by proponent, without inequity to other regulated handlers. On the other hand, it has been found necessary in the general application of milk orders to provide stringent rules concerning the receipt and allocation of milk at regulated plants in order to provide a clear basis on which to determine the extent of the handler's responsibility to producers. Any relaxation of an order to the point that some milk received by the regulated handler would not be controlled price-wise by the order and yet displace producer milk in the highest classification should be carefully constructed in light of a specific emergency in order that such a provision may not be utilized to avoid an order restriction in a situation for which it was not intended.

For the most part the testimony was conjectural. There is a real possibility that the potential situation described will not become a fact. In the event the Clarksburg plant is closed at some future

time to give way to the new highway, there may be alternative methods under either the Clarksburg order or the Bluefield order of preventing undue hardship to proponent. For example, proponent has a bottling plant at Fairmont, West Virginia. It may be possible for farmers now shipping to the Clarksburg plant to become regular producers at the Beckley plant by securing a change in health permits. A new plant location at Clarksburg may be found. Certainly proponent will receive advance notice to vacate which will provide opportunity to review the problem presented. The necessity and nature of any relief may be more accurately appraised in light of specific facts concerning the extent and time period of the actual emergency. In view of the above, it is concluded that a custom-bottling provision is not appropriate in the present circumstances.

It was proposed further by such handler that milk transferred to any plant regulated by the Bluefield order be allocated on a basis comparable to the class of utilization of such milk under the marketing order which covers the transferor's plant. Proponent referred particularly to milk which might be received from plants under either the Tri-State or Clarksburg order.

It was contended that such a transfer provision would assist a handler to hold his market against the inroads of milk brought by distributors in other markets for sale on routes since it would be easier for the local handler to obtain supplementary supplies when short of producer milk. Under the proposal any such milk, classified as Class I under an order such as the Clarksburg order, would be deductible from Class I milk in the Bluefield plant.

It is recognized that through the allocation procedure of assigning producer milk under each order to the highest-priced available uses, a quantity of milk may be classified as Class I milk in the exporting market and allocated, as "other source milk", to Class II milk in the receiving market. However, the deduction of the transferred quantity from Class I milk in the transferee-plant while local producer milk remains in Class II would not be justified under the conditions which prevail in the Bluefield area.

The Bluefield market is located in a deficit production area. Likewise, the Appalachian, Tri-State and Clarksburg markets are located in deficit milksheds. Unlike the Chicago market, referred to by proponent, which is relied upon to furnish supplemental supplies to adjacent markets as needed, none of the above-mentioned markets serves as a "balance wheel" to the supply condition of another of such markets. Each market is independent of the others in supply procurement and sources of outside milk vary. Since local producers of the Bluefield market represent the only fully dependable and reasonably near source of milk for most Bluefield handlers, there appears to be no substantial reason to force producer milk into manufacturing uses while temporary, and perhaps, sporadic, supplies from outside sources are assigned to higher-valued uses. Such

procedure would not assist the orderly marketing of milk in the Bluefield area.

Bluefield plants, including proponent's plant, have no substantial capacity to manufacture milk products. Milk imported from other areas is intended primarily to supplement local producer milk in Class I uses. If the need for such supplemental milk is real no handler should experience undue hardship from order requirements under which producer milk is first assigned to the highest-priced class since the bulk of the supplemental milk would be deductible from Class I milk in allocation if actually used for fluid purposes.

In view of the above, inter-market transfers should be allocated in the same general manner as any other milk which is received from sources other than producers. However, since it may be necessary at times to allocate both regulated (priced under another Federal order) and unregulated milk from outside sources as "other source milk" in a Bluefield plant, it is reasonable to allocate the unregulated milk first to the lowest-valued uses prior to the allocation of priced milk in such uses. The latter procedure is adopted.

Class prices. Class I prices should be established at a level which, together with appropriate Class II prices, will return to producers a uniform price sufficient to bring forth the required supply of Grade A milk throughout the year. Class prices established too low will result in the production of insufficient quantities of milk to meet the requirement of the market. However, if prices are too high, it will stimulate production and bring to the market more milk than is needed for Class I and reasonable "reserve" requirements. An overstimulation of production in excess of fluid milk requirements would result in the development of unnecessary and uneconomic surpluses.

Producers included in their proposals for the Bluefield area the same basic price formula now in use under Appalachian Order No. 23. The purpose of a basic price is to reflect the general economic factors underlying the price for milk. The price of milk used in manufactured milk products reflects, to a large extent, changes in general economic conditions affecting supply and demand, because the markets for most manufactured products are nationwide. For these reasons, many fluid milk markets have found it appropriate to use the prices for butter and nonfat dry milk solids, or the prices paid by condenseries (with differentials over these basic manufacturing prices), to establish fluid milk prices.

In the Bluefield market, prices for milk used for fluid purposes are related to prices paid for milk used for manufacturing purposes since the production and marketing of both types of milk are influenced by many of the same economic conditions. Farms producing milk for both fluid milk and manufacturing milk plants are intermingled to some extent in the Bluefield production area. In addition, manufacturing milk plants serve as alternative outlets for milk which is produced to meet fluid milk requirements. The recommended

differential added to the basic formula price should, in general, reflect the additional costs required for Grade A milk to be produced and delivered to Bluefield market handlers in the quantities required to meet the needs for fluid milk and cream consumption in the marketing area. The use of alternative components as included in the attached order in the determination of the basic formula price will reflect the basic factors which establish the full farm value of milk for manufacturing uses at any given time.

In view of these facts, it is concluded that the basic price should be the higher of (a) the average of the prices paid by the 13 "Midwestern condenseries", (b) a price computed on the basis of the daily quotations for 92-score butter at Chicago and prices paid for nonfat dry milk solids f. o. b. manufacturing plants in the Chicago area, or (c) the average of the prices paid for milk received from dairy farmers by nine selected manufacturing plants in or near the local milkshed. This basis for pricing, identical to that in the Appalachian market, will assist in maintaining proper price alignment between the markets.

The concept of adjusting minimum class prices in response to changes in supply and demand conditions, and thereby influencing the production of milk through consequent changes in producers' blend prices, has wider geographical implications today than in the past. In earlier days producers were limited to supplying milk to local markets because of inadequate transportation facilities and the local nature of health regulations and milk distribution systems. Today the technological advances in milk production, including the widespread use of milk cooling equipment on farms; the rapid motor transportation from farms to a number of cities instead of one or two, especially through the advent of bulk farm tank milk pickup; the increased efficiency of milk processing equipment and plants; the increasing importance of paper containers for packaging milk; the use of refrigerated delivery trucks; the sale of milk through vendors and stores in distant cities; and the corollary trend among health authorities of approving sources of milk derived from a wider supply area under agreement for reciprocal inspection—all these factors enable milk to be transported and sold long distances from the point of production and processing.

These developments have been and are influencing the marketing organization and price structure for producer milk and for fluid milk products in the Bluefield marketing area. Recent highway improvements have made this area accessible from a number of markets. That these developments have affected the level of prices paid for milk in the Bluefield marketing area may be noted from the many references in the record to the need of reasonable alignment of Bluefield marketing area prices with prices in the Appalachian, Clarksburg, and Tri-State markets.

Proponents proposed Class I price differentials (over the basic formula price) for the Bluefield marketing area

of \$1.35 during the months of April, May, and June; \$1.80 during the months of February, March, and July; and \$2.25 during all other months which would be added to a basic formula price similar to that used under Appalachian Order No. 23. Producers gave the following reasons for establishing differentials in these amounts: (1) The production area for the Bluefield market overlaps the production areas of Charleston, West Virginia; Winston-Salem, North Carolina; Beckley, West Virginia; Smyth-Wythe, Virginia; Pulaski - Montgomery - Giles, Virginia; Roanoke, Virginia; Galax, Virginia; and the Appalachian market; (2) a proper relationship of prices among markets obtaining fluid milk supplies from the same general production area is of utmost importance; (3) current blend prices have not induced an adequate year-round supply of inspected milk for the market; (4) producers have shifted from the Bluefield market to some of the above-named markets which offer higher returns; (5) increased demand for coal in this area has increased economic activity and the demand for dairy products; and (6) the proposed seasonal variation in price is necessary to encourage a more even production pattern throughout the year.

One handler proposed that the price for Class I milk should be the simple average of the prices established for Class I milk under Appalachian Order No. 23 and under Tri-State Order No. 72 (for the Huntington district). This handler, upon further consideration of this proposal, and his modified marketing area proposal (previously discussed), abandoned this price formula suggestion. Another handler proposed that the Class I price should be equivalent to the Class I price as established by the Tri-State order for the Huntington district. Handlers generally stressed the importance of the proper alignment of Class I prices in the Bluefield and Tri-State marketing areas. They testified that they are in competition with handlers from the Tri-State marketing area in the Logan, Pikeville, Williamson, and Prestonburg markets as to a very large proportion of their fluid milk sales. One handler in the Bluefield market who is regulated by the Tri-State order as to part of his supply bottled at a Bluefield area plant has regularly paid at least 31 cents per hundredweight over the minimum Class I price as required for such plant under the Tri-State order.

Consideration should be given to the need for alignment of Class I prices among the marketing areas of Appalachian, Bluefield, Clarksburg, and Tri-State. In this connection official notice is taken of the price formulas of the Appalachian, Clarksburg, and Tri-State orders. The Appalachian, Bluefield, and Clarksburg markets, and the Huntington district of the Tri-State market are all in deficit milk production areas. Although the Appalachian and Bluefield milk production areas overlap in four counties in Virginia, there is very little if any overlapping of either milkshed with the Tri-State milk production area. The costs of feed, farm labor, hay and dairy ration are quite similar in the production areas of the Appalachian and Bluefield

markets. Also, the costs of transporting milk from farms to milk plants are not significantly different in the two markets. The major portion of Bluefield handlers' sales, however, are in direct competition with handlers regulated by the Tri-State order. Handlers from these two areas are the major competitors in the Logan, Williamson, Prestonburg, and Pikeville markets.

The Class I price should be established in the Bluefield order by adding a differential of \$1.45 during the months of April, May, June, and July; \$1.80 during the months of February, March, and August; and \$2.10 during all other months, to the basic formula price. The average Class I price per hundredweight of 4 percent milk in 1955, f. o. b. market, would have been \$5.28 as fixed under the recommended formula. The average Class I price per hundredweight for the same period was \$5.40 under the Appalachian order and \$5.00 for the Huntington district under the Tri-State order. The formula adopted would have resulted in Class I prices per hundredweight of \$5.67 in January and \$5.27 in February, 1955. The Class I prices per hundredweight in the Appalachian order were \$5.67 in January and \$5.57 in February and in the Huntington district under the Tri-State order were \$5.53 in January and \$4.95 in February. A receiving station which receives milk for shipment to the Appalachian market is located at Rural Retreat in the Virginia segment of the Appalachian milkshed. A location differential of 14.5 cents per hundredweight is deductible from the Class I and uniform prices at this location. At this point, where the Bluefield and Appalachian milksheds overlap, the Class I price for Bluefield will be, on an annual average basis, approximately the same as that for the Appalachian market although the seasonal pattern of pricing is more closely aligned to that of the Tri-State market.

Producers proposed that a "supply-demand adjustment factor" be included in the Class I price formula to further reflect changes in local supply and demand conditions. Although a supply-demand adjustment factor in the pricing formula conceived from local data would be desirable and serve a useful purpose, it is concluded that the development of such a factor from the limited data available at present locally, or from experience in the Appalachian market, would not reflect the Bluefield marketing conditions adequately and should be delayed until the Bluefield market has had experience under the order. Market experience under regulation is desirable as a basis for determining with accuracy the seasonal patterns of production and demand for use in connection with such a formula. The class prices included in this order will be terminated eighteen months after this order becomes effective, providing an opportunity for review of the market situation based on more detailed information.

The Class II price formula should reflect a reasonable value of milk for manufacturing purposes in the production area of the Bluefield market. The price should be at such a level that handlers

will accept and market whatever quantities of milk in excess of Class I requirements may be produced from time to time. However, this price should not be so low that handlers will be encouraged to procure or retain milk supplies solely for the purpose of converting substantial quantities into Class II products when a Class I market exists.

Handlers in the Bluefield market use most of their daily reserves of milk for cottage cheese and ice cream production. The manufacture of limited quantities of producer milk into storable products such as condensed milk and nonfat dry milk solids occurs principally in the flush season of production and at plants not operated by handlers. All products included in Class II may be made from ungraded milk.

Producers provided a tank truck to divert surplus milk from a Bluefield handler's plant to a manufacturing plant during the last surplus production season. A premium over the basic manufacturing milk price was received for such milk.

The level of Class II milk prices in the flush production season should not be below that paid for ungraded milk, since such "pay" prices represent the prevailing value in the milkshed for milk for manufacturing purposes. Handlers who need and desire the entire output of producers during periods of short supply should assume the responsibility of paying producers at least the competitive manufacturing prices for Class II milk throughout the months of flush production.

The production areas of the Appalachian and Bluefield markets overlap. Regulated handlers' outlets for surplus milk during the flush production season from the Appalachian and Bluefield markets are manufacturing plants which are the principal buyers of ungraded milk in the milksheds of the two marketing areas. Official notice is taken of the Class II price formula in Appalachian Order No. 23. The Class II price computed for the Appalachian area during the months of March through August is, and will continue to be, the average of the prices paid for milk received from dairy farmers by nine manufacturing plants in the area. These plants are located at Galax and Abingdon, Virginia; Greenville, Lewisburg, and Murfreesboro, Tennessee; Mayfield and Bowling Green, Kentucky; Statesville, North Carolina; and Chester, South Carolina. It is concluded from the above that the Class II price for the months of March through August at Bluefield plants should be the average of the prices paid for milk received from dairy farmers by the nine manufacturing plants at the above locations.

During the months of below-average production a higher level of prices for Class II milk should be provided in the order so as to encourage the transfer of milk from manufacturing uses to fluid uses during the fall and winter months. In these months there are available outlets for reserve milk in cottage cheese and ice cream which, among manufacturing uses, are preferred outlets. These are also the months when considerable quantities of milk are imported into the

market. Supplemental supplies of milk during the short production season are received from areas where the price of milk used in the manufacture of butter and nonfat dry milk solids is an important factor in establishing the prevailing farm values of manufacturing milk. Therefore, it is concluded that the Class II price for the months of September through February, should be the higher of either the price computed pursuant to a butter-nonfat solids formula (4.8 times 92-score Chicago butter price per pound plus 8.2 times price per pound spray process nonfat dry milk for Chicago area, minus 75 cents per hundredweight) or the average of the prices paid by the nine manufacturing plants. This will provide alignment of Class II milk prices with the price of milk for similar uses in the Appalachian market.

As previously pointed out in this decision, it was concluded that butterfat and skim milk should be accounted for separately for classification purposes. It will be necessary, therefore, to adjust Class I and Class II prices of milk in accordance with the average test of milk in each class by a butterfat differential which will reflect differences in value due to variations in the butterfat content in each product. The basing point from which such adjustments are to be made should be 4.0 percent butterfat. This is the basis now used in both the Bluefield and Appalachian marketing areas. The values resulting from multiplying the average price of 92-score butter at Chicago by 0.120 for Class I milk and such butter price by 0.110 for Class II milk will provide an appropriate basis for adjusting such prices in this market.

The use of butterfat differentials in this manner follow standard practices in most fluid milk markets for adjusting for butterfat variations. In order that the Class I butterfat differential may be announced early each month, it is provided that the Class I differential be based on the average price of butter in the preceding month. This will permit the announcement of the Class I butterfat differential at the same time that the Class I price is announced.

The Class II price and the Class II butterfat differential will not be announced until after the end of the month. Although handlers will not know precisely the cost of such milk as it is utilized, they will know that their cost will follow that of their principal competitors for manufactured outlets. Trends in butter prices may be observed from daily and weekly market reports issued by the Department.

The butterfat differential used in making payments to producers should be calculated at the average of the returns actually received from the sale of butterfat in producer milk. The rate to be used for this purpose would be the average of the Class I and Class II differentials weighted by the proportion of butterfat in producer milk classified in each class. Thus, producer returns for butterfat will reflect the actual sale value of their butterfat at the class differentials provided in the order. The producer butterfat differential in no way affects the handlers' costs of milk but merely prorates returns among produc-

ers according to the varying butterfat tests of their milk.

Proponents originally proposed that no location differentials be adopted in pricing Class I milk for the Bluefield marketing area. It was pointed out that at present no milk is transported from receiving stations to processing plants. After further consideration, producers suggested that location adjustments should be computed on the basis of the distance between the receiving station and the Court House of either Mercer County at Princeton, West Virginia, or McDowell County at Welch, West Virginia, whichever point is nearest the receiving station. Producers gave the following reasons for establishing location adjustments in this manner: (1) The marketing area consists mainly of numerous small towns, (2) handlers' plants are not located in any one central community, and (3) the above two counties are the main centers of population in the proposed marketing area.

One handler proposed that the Class I price should be reduced for those plants which are outside the Bluefield marketing area by 10 cents per hundredweight of milk for the first 50 miles, and by 1.5 cents per hundredweight of milk for each additional 10 miles, or fraction thereof, that such plants are located from the City Hall of Bluefield, Virginia. This handler contended that a point representing the geographical center of the marketing area would be a desirable point from which to measure the cost to handlers in transporting milk to the market.

The farm value of milk for use in a market is affected, of course, by the cost of delivery to the place of utilization by the handler. Milk delivered directly to a plant located within the marketing area is worth more, by at least the cost of transportation, than is other milk to be utilized in the market but delivered to a plant located at a considerable distance from the market. Therefore, it is important to recognize the costs of transporting Class I milk from receiving stations that might become regular sources of supply for the Bluefield marketing area. In addition, it is important to establish the Class I price for milk delivered to processing plants at points in the marketing area and then provide a schedule of deductions from the Class I milk price as location differentials, or adjustments to such price.

In order to have equitable pricing of milk throughout this elongated marketing area it is necessary to provide points representative of the major communities in the marketing area from which location adjustments may be computed. This is an extended marketing area with numerous communities, or centers of population. The processing plants distributing fluid milk products in this area are not located in one central community. In addition, all plants serving the marketing area may not be located within its geographical limits. Accordingly, multiple points for fixing location adjustments should be used. These points should be the City Halls of Bluefield, and Welch, or the County Courthouse at Princeton, all in West Virginia, whichever is nearest to the plant. In view of the elongated

character of the marketing area and the intermingling of routes of handlers with plants located in rather widely separated communities, equitable pricing may be best achieved by omitting location differentials with respect to any plant located less than 50 miles from the nearest of the respective points referred to above.

It is concluded that the Class I price should be reduced 10 cents for plants located between 50 and 60 miles distant, and by 1.5 per hundredweight of milk for each additional 10 miles, or fraction thereof. Such differentials as established by this decision are the same as those prescribed in the Appalachian milk marketing order and are related to the cost of hauling milk by an efficient means under conditions similar to those in this market.

Because of the low cost per hundredweight of milk involved in transporting manufactured milk products the value of milk used in manufactured dairy products is affected little, if any, by the location of the plant receiving that milk. Therefore, no adjustment should be made in the Class II price for reasons of location of the plant at which the producer milk is first received.

Type of pool. The individual-handler type of pool should be included in the order as a means of distributing to producers the returns from the sale of their milk.

Under this method of pooling the minimum prices will be uniform to all producers delivering their milk to the same handler. The "blend", "base", and "excess" prices, as the case may be, for each producer will depend on the proportions of Class I and Class II milk used by the handler receiving such producer's milk. Although each handler subject to the order will be required to pay uniform minimum prices to all the producers who deliver to him during each month the minimum uniform prices payable to producers by the various handlers will differ according to the variations among handlers in the proportion of milk used in each class.

Handlers in this market are primarily distributors of fluid milk and fluid milk products and receive little, if any, excess milk for the purpose of supplying other handlers with supplemental milk. These handlers process reserve milk and surplus milk in their own plants for sale as ice cream and cottage cheese. Seasonal surpluses of any substantial volume are transported to manufacturing plants outside the marketing area. Because there is relatively little surplus milk and because such milk is more or less proportionate among the major handlers blended returns to producers are not expected to vary widely. The proximity of the Appalachian production area (where an individual-handler pool plan is used) to the Bluefield production area should also be considered. Because of the fact that plants are rather widely separated and the marketing area is extensive geographically, each handler disposes of any excess supplies by his own means. There are no particular plants to be regulated which serve to balance supplies among plants. It is concluded that individual-handler pools in the Bluefield marketing area will result in

optimum allocation of producer milk among handlers according to the Class I needs of the handlers and in maximum returns to producers from their milk.

Producer payment plan. A base and excess plan of distributing returns for milk among producers should be employed for this market.

Several handlers in the Bluefield market are now relying on various forms of base-excess plans to provide the incentive needed to induce producers to attain a more even production pattern throughout the year. Handlers have established the rules of these base-excess plans and have controlled the adjustment and transfer of bases. Although these plans performed a much-needed function, their actual operation in many cases leaves much to be desired from the standpoint of equity among producers.

Base and excess plans are effective means of improving the seasonal pattern of milk deliveries because they relate returns for milk directly to the individual producer's ability to deliver additional milk in the short production season and somewhat less milk during the season of flush production. In this market handlers' fluid milk sales customarily decline during the flush production season. In these months handlers have experienced difficulty in utilizing efficiently all seasonal excesses of milk. Distribution of producer returns under a base and excess plan will encourage a production pattern more even throughout the year.

It is concluded, therefore, that a base-excess plan similar to that in use in the Appalachian market, applied to all producers, by being made a part of the attached order, will play a useful role in stabilizing marketing and pricing conditions in the area.

The base and excess plan provided herein would provide for the calculation of the daily base of each producer by the market administrator by dividing the total pounds of milk received by all handlers from such producer during the months of September through February by the number of days from the first day milk is received from such producer during those months to the last day of February, inclusive, but by not less than 120 days. On or before April 1st of each year the market administrator would be required to notify each producer, and the handler receiving milk from him, of the daily base established by such producer. Now producers entering the market would not establish a base until they have met the above 120-day requirement in the same manner as other producers.

During the months of August through March all producers would receive the same uniform, or average, price paid by the handler to which they deliver their milk. For each of the months of April through July, separate uniform prices for "base milk" and "excess milk" would be computed. Class I sales would be allotted first to "base milk." Base milk would be that quantity of milk delivered by each producer up to his average daily base multiplied by the number of days of delivery in the month. The "excess milk" price would be the minimum order Class II price, unless the total Class I sales of the handler exceed the total

quantity of base milk received from producers during the month. In this case, the excess milk used for Class I sales would be reflected in the calculation of the excess milk price. Audit adjustments, inventory reclassification, and overages may further enhance the pooled value of "excess milk" from time to time and it is possible that without proper provision the excess milk price might be higher than the base price. As explained in an earlier part of this decision no useful purpose is served in improving the seasonal production pattern when the excess price exceeds the base price. As in the Appalachian order, the uniform prices for base and excess milk should be recomputed whenever the above condition would otherwise occur in order that the two prices may be equal.

Certain rules are necessary in connection with the establishment and transfer of bases in order to provide reasonable administrative workability of the plan. Any transfer of base should be limited to situations where changes in the operation of a farm result because of (1) new ownership, (2) the death, retirement or entry into military service of a producer, or (3) changes in partnership or tenant-lord arrangements. Since the base plan is effective in determining producer payments in only four months of each year and since all producers must establish a new base each year, other provisions than those contained herein for the transfer of bases are unnecessary.

Handlers should make payments to each producer for milk delivered by such producer at the appropriate uniform prices. If a producer has given a cooperative association written authorization, in the form of a contract, or in any other form, to collect payments for him and association makes a written request for such payments due such producer payment should be made by the handler to the cooperative. A provision authorizing handlers to make payment directly to such qualified cooperative for milk received from producer-members is necessary to enable the association to carry out its essential functions authorized by the enabling act. A cooperative association, if it is to carry out these essential functions, must have full authority in the collective bargaining and selling of member milk. Therefore, it is concluded that each handler with respect to milk received from a producer for which payment is not made to a cooperative association should pay such producer at not less than the applicable uniform price(s) on or before the 15th day after the end of each month. With respect to the producers whose milk was caused to be delivered by a cooperative association which is authorized to collect payment for such milk, the handler shall remit, if requested in writing by the cooperative association on or before the 13th day after the end of such month, an amount equal to the sum of the individual payments otherwise payable to such producers.

In making such payments for producer milk to a cooperative association the handler should at the same time furnish the cooperative association with a statement showing the name of each producer for whom payment is being

made to the cooperative association, the volume and average butterfat content of milk delivered by each such producer, and the amounts of and reasons for any deductions which the handler withheld from the amount payable to each producer. This statement is necessary in order that the cooperative association can make proper distribution of the money to the producer-members for whom it makes collections.

Proponents proposed that in addition to the regular monthly payments handlers should be required, upon request, to make advance payments to the producers' cooperative association for member milk. These advance payments would be made on the 23d day of each month for milk received from member producers who have requested an advance from the cooperative association. The payment would be made with respect to milk delivered during the first fifteen days of such month, at not less than the Class II price per hundred-weight for the preceding month. Producers indicated that an advance payment for milk would assist in defraying costs more promptly.

Handlers suggested that if advance payments are included they should be made to each producer on or before the last day of each month for milk received from each producer during the first fifteen days of such month, at not less than the Class II price per hundred-weight for the preceding month.

One handler makes payments to each producer twice a month on the 4th and 19th days of the month. Other handlers customarily have made advance payments to producers who requested them. The record lacks evidence of any widespread need for the proposed advance payments and, therefore, they are denied.

Administrative provisions. Provisions should be included in the order with respect to the administrative steps necessary to carry out the proposed regulation.

In addition to the definitions discussed earlier in this decision which define the scope of the regulation, certain other terms and definitions are desirable in the interest of brevity and to assure that each usage of the term implies the same meaning. Definitions for base and excess milk are included. Such other terms as are defined in the attached order are common to many other Federal milk orders.

Market administrator. Provision should be made for the appointment by the Secretary of a market administrator to administer the order and to set forth the powers and duties for such agency essential to the proper functioning of such office.

Records and reports. Provisions should be included in the order requiring handlers to maintain adequate records of their operations and to make the reports necessary to establish the classification of producer milk and payments due therefor. Time limits must be prescribed for filing such reports and for making the payments to producers.

Handlers should maintain and make available to the market administrator all records and accounts of their opera-

tions, together with facilities which are necessary to determine the accuracy of information reported to the market administrator or any other information upon which the classification of producer milk depends. The market administrator must likewise be permitted to check the accuracy of weights and tests of milk and milk products received and handled, and to verify all payments required under the order. It is provided that each handler shall report his Class I sales outside the marketing area as a separate figure. In view of the extent of such sales adequate data should be compiled for review in the event the scope of the marketing area should require revision.

In addition to the regular reports required of handlers, provision is made for handlers to notify the market administrator of their intentions to import other source milk. Such information on a market-wide basis may assist handlers in locating local sources of producer milk and expedite the transfer of such milk among handlers. It is necessary that handlers retain records to prove the utilization of the milk and that proper payments were made to producers. Since the books and records of all handlers cannot be completed or audited immediately after the milk has been delivered to a plant, it therefore becomes necessary to keep such records for a reasonable period of time.

The order should provide limitations on the period of time handlers shall be required to retain such books and records and on the period of time in which obligations under the order shall terminate. Provision made in this regard is identical in principle with the general amendment made to all milk orders in operation on July 30, 1947, following the Secretary's decision of January 26, 1949 (14 F. R. 444). That decision covering the retention of records and limitation of claims is equally applicable in this situation and is adopted as a part of this decision.

Expense of administration. Each handler should be required to pay the market administrator, as his pro rata share of the cost of administering the order, not more than 5 cents per hundredweight, or such lesser amount as the Secretary may from time to time prescribe, on (a) producer milk (including such handler's own production), (b) other source milk at a fluid milk plant which is classified as Class I milk, and (c) Class I milk disposed of on routes in the marketing area from a nonfluid milk plant.

The market administrator must have sufficient funds to enable him to administer properly the terms of the order. The act provides that such cost of administration shall be financed through an assessment on handlers. One of the duties of the market administrator is to verify the receipts and disposition of milk from all sources. The record indicates that other source milk is received by some handlers to supplement local producer supplies of milk. Equity in sharing the cost of administration of the order among handlers will be achieved, therefore, by applying the administrative assessment to all producer milk (including the handler's own pro-

duction) and other source milk allocated to Class I milk.

Plants not subject to the classification and pricing provisions of the order may distribute limited quantities of Class I milk in the marketing area. These plants must be checked to verify their status under the order. Assessment of administrative expense with respect to such milk sold in the marketing area will help to defray the costs of such checks.

In view of the anticipated volume of milk and the costs of administering orders in markets of comparable circumstances, it is concluded that an initial maximum rate of 5 cents per hundredweight is necessary to meet the expenses of administration. Provision should be made to enable the Secretary to reduce the rate of assessment below the 5 cent per hundredweight maximum without necessitating an amendment to the order. This should be done at any time experience in the market reveals that a lesser rate will produce sufficient revenue to administer the order properly.

Marketing services. A provision should be included in the order for furnishing marketing services to producers, such as verifying tests and weights and furnishing market information. These services should be provided by the market administrator and the cost should be borne by the producers receiving the services. If a cooperative association is performing such services for any member producers and is approved for such activities by the Secretary the market administrator may accept this in lieu of his own service.

There is a need for a marketing services program in connection with the administration of an order in this area. Orderly marketing will be promoted by assuring individual producers that payments received for their milk are based on the pricing provisions of the order, and reflect accurate weights and tests of such milk. To accomplish this fully, it is necessary that the butterfat tests and weights of individual producer deliveries of milk as reported by the handler be verified for accuracy.

An important phase of the marketing service program is to furnish producers with current market information. Detailed information regarding market conditions is not now regularly available either to producers or to cooperative associations. Efficiency in the production, utilization, and marketing of milk will be promoted by the dissemination of current information on a marketwide basis to all producers.

To enable the market administrator to furnish such services, provision should be made for a maximum deduction of 6 cents per hundredweight with respect to receipts of milk from producers for whom he renders marketing services. Comparison of the extent of the milkshed and the volume of milk involved with that of the Appalachian market, now under Federal regulation, leads to the conclusion that this will reflect the maximum cost of such services. If later experience indicates that marketing services can be performed at a lesser rate, provision is made for the Secretary to adjust the rate downward without the necessity of a hearing.

General findings. (a) The proposed marketing agreement and order and all the terms and conditions thereof, will tend to effectuate the declared policy of the act;

(b) The parity prices of milk as determined pursuant to section 2 of the act are not reasonable in view of the price of feeds, available supplies of feeds and other economic conditions which affect market supply and demand for milk in the marketing area, and the minimum prices specified in the proposed marketing agreement and order are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk and be in the public interest; and

(c) The proposed order will regulate the handling of milk in the same manner as, and will be applicable to persons in the respective classes of industrial and commercial activity specified in, a marketing agreement upon which a hearing has been held.

Rulings on proposed findings and conclusions. Briefs were filed on behalf of producer organizations and certain handlers (as defined in the proposed order). The briefs contained statements of fact, proposed findings and conclusions, and arguments with respect to the provisions of the proposed amendments. Every point covered in the briefs were carefully considered along with the evidence in the record in making the findings and reaching the conclusions hereinbefore set forth. To the extent that such suggested findings and conclusions contained in the briefs are inconsistent with the findings and conclusions contained herein, the request to make such findings or to reach such conclusions is denied on the basis of the facts found and stated in connection with the conclusions in the recommended decision.

Recommended marketing agreement and order. The following order is recommended as the detailed and appropriate means by which the foregoing conclusions may be carried out. The recommended marketing agreement is not included in this decision because the regulatory provisions thereof would be identical with those contained in the order which is made part of this decision:

DEFINITIONS

§ 1012.1 **Act.** "Act" means Public Act No. 10, 73d Congress, as amended, and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.).

§ 1012.2 **Secretary.** "Secretary" means the Secretary of Agriculture of the United States or any other officer or employee of the United States authorized to exercise the powers or to perform the duties of the said Secretary of Agriculture.

§ 1012.3 **Department of Agriculture.** "Department of Agriculture" means the United States Department of Agriculture or any other Federal agency authorized to perform the price reporting functions specified in this part.

§ 1012.4 **Person.** "Person" means any individual, partnership, corporation, association, or other business unit.

§ 1012.5 **Cooperative association.** "Cooperative association" means any cooperative marketing association which the Secretary determines, after application by the association:

(a) To be qualified under the provisions of the act of Congress of February 18, 1922, as amended, known as the "Capper-Volstead Act"; and

(b) To have full authority in the sale of milk of its members and to be engaged in making collective sales of or marketing milk or its products for its members.

§ 1012.6 **Bluefield marketing area.** "Bluefield marketing area," hereinafter called the "marketing area," means all the territory geographically located within the perimeters of the counties of Mercer and McDowell, in West Virginia, and Tazewell in Virginia.

§ 1012.7 **Fluid milk plant.** "Fluid milk plant" means (a) any plant from which a volume of Class I milk equal to an average of more than 1,000 pounds per day, or not less than 2.0 percent of the approved milk of such plant is disposed of during the month on routes (including routes operated by vendors) or through plant stores to retail or wholesale outlets (except other fluid milk plants) located in the marketing area, (b) any plant which ships (1) any milk or skim milk during the months of February through July, or (2) an amount of milk, skim milk or cream in fluid form in excess of 70,000 pounds for the month during the months of August through January, to a plant qualified pursuant to paragraph (a) of this section, and (c) any plant which during the months of August through January receives milk from farmers holding dairy farm permits or ratings issued by a health authority having jurisdiction in the marketing area, and from which milk, skim milk or cream is moved during the month to a plant qualified pursuant to paragraph (a) of this section: *Provided*, That if a portion of a plant is operated separately and no approved milk is received in such portion of the plant, it shall not be considered as part of a fluid milk plant pursuant to this section: *And provided further*, That this definition shall not be deemed to include any building, premises or facilities the primary function of which is to hold or store bottled milk or milk products in finished form in transit for wholesale or retail route distribution.

§ 1012.8 **Approved plant.** "Approved plant" means a fluid milk plant or any plant from which Class I milk is delivered (including delivery by a vendor or sale from a plant store) during the month to retail or wholesale outlets (except fluid milk plants) located in the marketing area.

§ 1012.9 **Nonfluid milk plant.** "Nonfluid milk plant" means any milk manufacturing, processing or bottling plant other than a fluid milk plant.

§ 1012.10 **Handler.** "Handler" means any person in his capacity as the operator of an approved plant.

§ 1012.11 **Producer.** "Producer" means any person except a producer-handler, who produces milk in compli-

ance with the Grade A inspection requirements of a duly constituted health authority, which milk is (a) received at a fluid milk plant, or (b) diverted by the operator of a fluid milk plant for his account to a nonfluid milk plant (1) any day during the months of April through July, and (2) on not more than 15 days during any of the months of August through March: *Provided*, That milk so diverted shall be deemed to have been received by the diverting handler at the location of the plant from which it was diverted.

§ 1012.12 *Producer milk*. "Producer milk" means only that skim milk or butterfat contained in milk (a) received at the fluid milk plant directly from producers or (b) diverted from a fluid milk plant to a nonfluid milk plant in accordance with the conditions set forth in § 1012.11.

§ 1012.13 *Approved milk*. "Approved milk" means any skim milk or butterfat contained in producer milk, or in milk, skim milk or cream which is received from a fluid milk plant, except the plant of a producer-handler, and which is approved for distribution as Class I milk by the agency issuing the health permit to such plant.

§ 1012.14 *Other source milk*. "Other source milk" means all skim milk and butterfat contained in:

(a) Receipts during the month in the form of products designated as Class I milk pursuant to § 1012.41 (a), except (1) such products approved by the appropriate health authority for distribution as Class I milk in the marketing area which are received from fluid milk plants, or (2) producer milk; and

(b) Products designated as Class II milk pursuant to § 1012.41 (b) (1) from any source (including those from a plant's own production), which are reprocessed or converted to another product in the plant during the month.

§ 1012.15 *Producer-handler*. "Producer-handler" means any person who operates a dairy farm and an approved plant from which Class I milk is disposed of in the marketing area but who receives no milk from other dairy farmers.

§ 1012.16 *Chicago butter price*. "Chicago butter price" means the simple average as computed by the market administrator of the daily wholesale selling prices (using the midpoint of any range as one price) per pound of 92-score bulk creamery butter at Chicago as reported during the month by the Department of Agriculture.

§ 1012.17 *Base milk*. "Base milk" means milk received at a fluid milk plant from a producer during any of the months of April through July which is not in excess of such producer's base for such month computed pursuant to § 1012.81.

§ 1012.18 *Excess milk*. "Excess milk" means either (a) milk received at a fluid milk plant from a producer during any of the months of April through July, which is in excess of base milk received from such producer during such month, or (b) milk received during such month

from a producer for whom no base can be computed pursuant to § 1012.80.

MARKET ADMINISTRATOR

§ 1012.20 *Designation*. The agency for the administration of this part shall be a market administrator, selected by the Secretary, who shall be entitled to such compensation as may be determined by, and shall be subject to removal at the discretion of, the Secretary.

§ 1012.21 *Powers*. The market administrator shall have the following powers with respect to this part:

(a) To administer its terms and provisions;

(b) To receive, investigate, and report to the Secretary complaints of violations;

(c) To make rules and regulations to effectuate its terms and provisions; and

(d) To recommend amendments to the Secretary.

§ 1012.22 *Duties*. The market administrator shall perform all duties necessary to administer the terms and provisions of this part, including but not limited to, the following:

(a) Within 45 days following the date on which he enters upon his duties, or such lesser period as may be prescribed by the Secretary, execute and deliver to the Secretary a bond, effective as of the date on which he enters upon his duties and conditioned upon the faithful performance of such duties, in an amount and with surety thereon satisfactory to the Secretary;

(b) Employ and fix the compensation of such persons as may be necessary to enable him to administer its terms and provisions;

(c) Obtain a bond in a reasonable amount, and with reasonable surety thereon, covering each employee who handles funds entrusted to the market administrator;

(d) Pay out of the funds provided by § 1012.95 (1) of the cost of his bond and of the bonds of his employees, (2) his own compensation, and (3) all other expenses, except those incurred under § 1012.94, necessarily incurred by him in the maintenance and functioning of his office and in the performance of his duties;

(e) Keep such books and records as will clearly reflect the transactions provided for in this part, and upon request by the Secretary, surrender the same to such other person as the Secretary may designate;

(f) Publicly announce, at his discretion, unless otherwise directed by the Secretary, by posting in a conspicuous place in his office and by such other means as he deems appropriate, the name of any person who, after the date upon which he is required to perform such acts, has not made reports pursuant to §§ 1012.30 and 1012.31, or payments pursuant to §§ 1012.90 through 1012.95;

(g) Submit his books and records to examination by the Secretary and furnish such information and reports as may be required by the Secretary;

(h) Prepare and make available for the benefit of producers, consumers, and handlers such general statistics and information concerning the operation

hereof as are necessary and essential to the proper functioning of this part;

(i) Verify all reports and payments by each handler by audit, if necessary, of such handler's records and the records of any other handler or person upon whose utilization the classification of skim milk and butterfat for such handler depends; and

(j) On or before the date specified, publicly announce and notify each handler in writing of the following: (1) The 6th day of each month, the Class I price, and the Class I butterfat differential, both for the current month; (2) the 6th day of each month, the Class II price and the Class II butterfat differential, both for the preceding month; and (3) the 10th day after the end of each month, the uniform price(s), and the producer butterfat differential.

REPORTS, RECORDS, AND FACILITIES

§ 1012.30 *Reports of receipts and utilization*. On or before the 6th day after the end of each month, each handler, except a producer-handler, shall report to the market administrator in the detail and on forms prescribed by the market administrator for each of his approved plants for such month as follows:

(a) The quantities of skim milk and butterfat contained in receipts of producer milk;

(b) The quantities of skim milk and butterfat contained in products designated as Class I milk pursuant to § 1012.41 (a) (1) received from other handlers;

(c) The quantities of skim milk and butterfat contained in other source milk;

(d) Inventories of products designated as Class I milk pursuant to § 1012.41 (a) (1) on hand at the beginning and end of the month; and

(e) The utilization of all skim milk and butterfat required to be reported pursuant to this section, including a separate statement of the disposition of Class I milk outside the marketing area.

§ 1012.31 *Other reports*. (a) Each producer-handler shall make reports to the market administrator at such time and in such manner as the market administrator may prescribe.

(b) Each handler, except a producer-handler, shall report to the market administrator in detail and on forms prescribed by the market administrator:

(1) On or before the 20th day after the end of the month for each of his fluid milk plants his producer payroll for such month which shall show for each producer: (i) His name and address, (ii) the total pounds of milk received from such producer, including, for the months of April through July, the total pounds of base and excess milk, (iii) the days on which milk was received from such producer if less than a full month, (iv) the average butterfat content of such milk, and (v) the net amount of such handler's payment, together with the price paid and the amount and nature of any deductions;

(2) On or before the first day other source milk is received in the form of milk, fluid skim milk or cream at his fluid milk plant(s), his intention to re-

ceive such product, and on or before the last day such product is received, his intention to discontinue receipt of such product; and

(3) Such other information with respect to his utilization of butterfat and skim milk as the market administrator may prescribe.

§ 1012.32 *Records and facilities.* Each handler shall maintain and make available to the market administrator during the usual hours of business such accounts and records of his operations and such facilities as are necessary for the market administrator to verify or establish the correct data with respect to:

(a) The receipt and utilization of all skim milk and butterfat handled in any form;

(b) The weights and tests for butterfat and other content of all milk, skim milk, cream, and other milk products handled;

(c) The pounds of skim milk and butterfat contained in or represented by all milk, skim milk, cream, and other milk products on hand at the beginning and end of each month; and

(d) Payments to producers, including any deductions authorized by producers, and disbursement of money so deducted.

§ 1012.33 *Retention of records.* All books and records required under this order to be made available to the market administrator shall be retained by the handler for a period of three years to begin at the end of the calendar month to which such books and records pertain: *Provided*, That if, within such three-year period, the market administrator notifies the handler in writing that the retention of such books and records, or of specified books and records, is necessary in connection with a proceeding under section 8c (15) (A) of the act or a court action specified in such notice, the handler shall retain such books and records, or specified books and records, until further written notification from the market administrator. In either case, the market administrator shall give further written notification to the handler promptly upon the termination of the litigation or when the records are no longer necessary in connection therewith.

CLASSIFICATION

§ 1012.40 *Skim milk and butterfat to be classified.* The skim milk and butterfat at fluid milk plants, which is required to be reported pursuant to § 1012.30 shall be classified each month by the market administrator, pursuant to the provisions of §§ 1012.41 through 1012.46.

§ 1012.41 *Classes of utilization.* Subject to the conditions set forth in §§ 1012.43 and 1012.44, the classes of utilization shall be as follows:

(a) *Class I milk.* Class I milk shall be all skim milk (including concentrated and reconstituted skim milk) and butterfat (1) disposed of in the form of milk, skim milk, buttermilk, milk drinks (plain or flavored), cream (except frozen cream) and any mixture in fluid form of skim milk and cream (except sterilized products in hermetically sealed containers, ice cream mix, and eggnog);

and (2) not accounted for as Class II milk;

(b) *Class II milk.* Class II milk shall be all skim milk and butterfat (1) used to produce any product other than those designated as Class I milk pursuant to paragraph (a) of this section; (2) contained in (skim milk only) any product disposed of for livestock feed; (3) dumped (skim milk only) during the months of April, May, June or July; *Provided*, That the market administrator is given not less than 6 hours' notice of the handler's intention to make such disposition; (4) contained in inventory of products designated as Class I milk pursuant to paragraph (a) of this section on hand at the end of the month; and (5) in shrinkage assigned to Class II pursuant to § 1012.42.

§ 1012.42 *Shrinkage.* The market administrator shall determine the assignment of shrinkage to Class II milk as follows:

(a) Determine the total shrinkage of butterfat and skim milk in the fluid milk plant(s) of the handler;

(b) Multiply the pounds of skim milk and butterfat in producer milk (except milk diverted pursuant to § 1012.11) and other source milk by 0.02;

(c) Multiply the pounds of butterfat and skim milk, respectively, determined pursuant to paragraph (a) or (b) of this section, whichever is less, by the percentage of butterfat and skim milk classified pursuant to § 1012.41 (a) and (b) (1) (except shrinkage determined pursuant to paragraph (a) of this section) which is in Class II milk. The resulting amounts of skim milk and butterfat shall be classified as Class II milk; and

(d) Assign the shrinkage of skim milk and butterfat classified as Class II milk pro rata to producer milk and other source milk.

§ 1012.43 *Responsibility of handlers and reclassification of milk.* (a) All skim milk and butterfat shall be Class I milk unless the handler who first receives such skim milk or butterfat can prove to the market administrator that such skim milk or butterfat should be classified otherwise;

(b) Any skim milk or butterfat shall be reclassified if verification by the market administrator discloses that the original classification was incorrect.

§ 1012.44 *Transfers.* Skim milk or butterfat disposed of from a fluid milk plant shall be classified:

(a) As Class I milk if transferred in the form of products designated as Class I milk in § 1012.41 (a) (1) to a fluid milk plant of another handler, except a producer-handler, unless utilization as Class II milk is claimed by both handlers in the reports submitted by them to the market administrator pursuant to § 1012.30: *Provided*, That the skim milk or butterfat so assigned to Class II milk shall be limited to the amount thereof remaining in Class II milk in the plant of the transferee-handler after the subtraction of other source milk pursuant to § 1012.46, and any additional amounts of such skim milk or butterfat shall be assigned to Class I milk: *And provided further*, That if either or both handlers

have received other source milk, the skim milk or butterfat so transferred shall be classified at both plants so as to allocate the greatest possible Class I milk utilization to the producer milk of both handlers.

(b) As Class I milk if transferred to a producer-handler in the form of products designated as Class I milk in § 1012.41 (a) (1);

(c) As Class I milk if transferred or diverted in bulk form as milk or skim milk to a nonfluid plant located in the marketing area or not more than 200 miles by the shortest highway distance, as determined by the market administrator, from the City Hall, Bluefield, West Virginia, unless:

(1) The handler claims Class II on the basis of utilization mutually indicated in writing to the market administrator by both buyer and seller on or before the 6th day after the end of the month within which such transaction occurred;

(2) The buyer maintains books and records showing the utilization of all skim milk and butterfat at his plant which are made available, if requested by the market administrator for the purpose of verification; and

(3) Not less than an equivalent amount of skim milk and butterfat was actually used as Class II milk in such buyer's plant.

(d) As Class I milk if transferred in bulk form as cream to a nonfluid plant unless:

(1) Such cream is transferred without Grade A certification of any health authority;

(2) The handler claims Class II in his report submitted to the market administrator pursuant to § 1012.30 on or before the 6th day after the end of the month within which such transaction occurred;

(3) The buyer maintains books and records showing the utilization of all skim milk and butterfat at his plant which are made available, if requested by the market administrator for the purpose of verification; and

(4) Not less than an equivalent amount of skim milk and butterfat was actually used as Class II milk in such buyer's plant.

§ 1012.45 *Computation of the skim milk and butterfat in each class.* For each month, the market administrator shall correct for mathematical and for other obvious errors, the reports of receipts and utilization for the fluid milk plants of each handler and shall compute the pounds of butterfat and skim milk in Class I milk and Class II milk for such handler: *Provided*, That if any of the water contained in the milk from which a product is made is removed before the product is utilized or disposed of by a handler, the pounds of skim milk used or disposed of in such product shall be considered to be an amount equivalent to the nonfat milk solids contained in such product, plus all of the water originally associated with such solids.

§ 1012.46 *Allocation of skim milk and butterfat classified.* After making the computations pursuant to § 1012.45, the market administrator shall determine

the classification of producer milk for each handler as follows:

(a) Skim milk shall be allocated in the following manner:

(1) Subtract from the total pounds of skim milk in Class II milk the pounds of skim milk assigned to producer milk pursuant to § 1012.42 (d);

(2) Subtract from the remaining pounds of skim milk in Class II milk, the pounds of skim milk in other source milk (that derived from milk priced under another Federal order to be subtracted last); *Provided*, That if the receipts of skim milk in other source milk are greater than the remaining pounds of skim milk in Class II milk, an amount equal to the difference shall be subtracted from the pounds of skim milk in Class I milk;

(3) Subtract from the remaining pounds of skim milk in Class II milk the pounds of skim milk contained in inventory of products designated as Class I milk pursuant to § 1012.41 (a) (1) on hand at the beginning of the month; *Provided*, That if the pounds of skim milk in such inventory are greater than the remaining pounds of skim milk in Class II milk, an amount equal to the difference shall be subtracted from the pounds of skim milk in Class I milk;

(4) Subtract from the remaining pounds of skim milk in each class the skim milk received from the fluid milk plants of other handlers in the form of products designated as Class I milk in § 1012.41 (a) (1), according to its classification as determined pursuant to § 1012.44 (a);

(5) Add to the remaining pounds of skim milk in Class II milk the pounds of skim milk subtracted pursuant to subparagraph (1) of this paragraph; and

(6) If the remaining pounds of skim milk in both classes exceed the pounds of skim milk contained in producer milk, subtract such excess from the remaining pounds of skim milk in series beginning with Class II milk. Any amount so subtracted shall be known as "overage."

(b) Butterfat shall be allocated in accordance with the same procedure outlined for skim milk in paragraph (a) of this section;

(c) Determine the weighted average butterfat content of the Class I and Class II milk allocated to producer milk.

MINIMUM PRICES

§ 1012.50 *Basic formula price.* The highest of the prices computed pursuant to paragraph (a) or (b) of this section and § 1012.51 (b), rounded to the nearest whole cent, shall be known as the basic formula price.

(a) To the average of the basic or field prices per hundredweight reported to have been paid or to be paid for milk of 3.5 percent butterfat content received from farmers during the month at the following plants or places for which prices have been reported to the market administrator or to the Department of Agriculture:

Present Operator and Location

Borden Co., Mount Pleasant, Mich.
Carnation Co., Sparta, Mich.
Pet Milk Co., Hudson, Mich.
Pet Milk Co., Wayland, Mich.

Pet Milk Co., Coopersville, Mich.
Borden Co., Orfordville, Wis.
Borden Co., New London, Wis.
Carnation Co., Richland Center, Wis.
Carnation Co., Oconomowoc, Wis.
Pet Milk Co., New Glarus, Wis.
Pet Milk Co., Bellesville, Wis.
White House Milk Co., Manitowoc, Wis.
White House Milk Co., West Bend, Wis.

add an amount computed by multiplying the Chicago butter price for the month by 0.6.

(b) The price per hundredweight computed as follows: Multiply the Chicago butter price by 4.0, add 20 percent thereof, and add to such sum 3½ cents for each full ½ cent that the average of carlot prices per pound of nonfat dry milk solids, spray and roller process, for human consumption, f. o. b. Chicago area manufacturing plants, as reported by the Department of Agriculture for the period from the 26th day of the immediately preceding month through the 25th day of the current month, is above 5 cents.

§ 1012.51 *Class prices.* Subject to the provisions of §§ 1012.52 and 1012.53, the class prices per hundredweight for the month shall be as follows:

(a) *Class I milk price.* For each month during the eighteen-month period following the effective date of this order the Class I milk price shall be the basic formula price for the preceding month, plus \$1.45 during the months of April through July; \$1.80 during the months of February, March, and August; and plus \$2.10 during all other months.

(b) *Class II milk price.* For the months of March through August, the Class II milk price shall be the price computed pursuant to subparagraph (1) of this paragraph, and for all other months the higher of the prices computed pursuant to subparagraphs (1) and (2) of this paragraph:

(1) The average of the basic (or field) prices reported to have been paid or to be paid per hundredweight for milk of 4.0 percent butterfat content received from farmers during the month at the following plants or places for which prices have been reported to the market administrator or to the Department of Agriculture on or before the 6th day after the end of the month:

Company and Location

Pet Milk Co., Mayfield, Ky.
Pet Milk Co., Bowling Green, Ky.
Pet Milk Co., Greenville, Tenn.
Pet Milk Co., Abingdon, Va.
Carnation Co., Murfreesboro, Tenn.
Carnation Co., Statesville, N. C.
Borden Co., Lewisburg, Tenn.
Borden Co., Chester, S. C.
Carnation Co., Galax, Va.

(2) Add the amounts obtained pursuant to subdivisions (1) and (ii) of this subparagraph, and subtract 75 cents therefrom.

(i) Multiply the Chicago butter price by 4.8;

(ii) Multiply by 8.2 the weighted average of carlot prices per pound for spray process nonfat dry milk solids, for human consumption, f. o. b. manufacturing plants in the Chicago area, as published for the period from the 26th day of the

immediately preceding month through the 25th day of the current month, by the Department of Agriculture.

§ 1012.52 *Butterfat differential to handlers.* For milk containing more or less than 4.0 percent butterfat, the class prices for the month calculated pursuant to § 1012.51 shall be increased or decreased, respectively, for each one-tenth percent butterfat at the appropriate rate determined as follows:

(a) *Class I price.* Multiply the Chicago butter price by 0.12, and round to the nearest one-tenth cent.

(b) *Class II price.* Multiply the Chicago butter price by 0.11, and round to the nearest one-tenth cent.

§ 1012.53 *Location differentials to handlers.* For that milk which is received from producers at a fluid milk plant located 50 miles or more from the nearest of the following listed places, by shortest hard surfaced highway distance, as determined by the market administrator, and which is transferred in the form of products designated as Class I milk in § 1012.41 (a) (1) and assigned to Class I milk pursuant to the proviso of this section, or otherwise classified Class I milk, the price specified in § 1012.51 (a) shall be reduced at the rate of 10 cents per hundredweight for a distance of not less than 50 miles but less than 60 miles, plus 1.5 cents per hundredweight additional for each 10 miles, or fraction thereof, beyond 60 miles, according to the location of the fluid milk plant where such milk is received from producers:

County Courthouse, Princeton, W. Va.
City Hall, Bluefield, W. Va.
City Hall, Welch, W. Va.

Provided, That for the purpose of calculating such location differential, products so designated as Class I milk which are transferred between fluid milk plants shall be assigned to any remainder of Class II milk in the transferee-plant after making the calculations prescribed in § 1012.46 (a) (1) and (2), and the comparable steps in § 1012.46 (b) for such plant, and after deducting from such remainder an amount equal to 0.05 times the skim milk and butterfat contained in the producer milk received at the transferee-plant, such assignment to transferor plants to be made in sequence according to the location differential applicable at each plant, beginning with the plant having the largest differential.

§ 1012.54 *Use of equivalent prices.* If for any reason a price quotation required by this part for computing class prices or for other purposes is not available in the manner described, the market administrator shall use a price determined by the Secretary to be equivalent to the price which is required.

APPLICATION OF PROVISIONS

§ 1012.60 *Producer-handlers.* Sections 1012.40 through 1012.46, 1012.50 through 1012.53, 1012.70 through 1012.72, 1012.80 through 1012.83, and 1012.90 through 1012.96 shall not apply to a producer-handler.

§ 1012.61 *Plants subject to other Federal orders.* A plant specified in paragraph (a) or (b) of this section shall be

considered as a nonfluid milk plant except that the operator of such plant shall, with respect to the total receipts and utilization or disposition of skim milk and butterfat at the plant, make reports to the market administrator at such time and in such manner as the market administrator may require (in lieu of the reports required pursuant to § 1012.30), and allow verification of such reports by the market administrator.

(a) Any plant qualified pursuant to § 1012.7 (a) which would be subject to the classification and pricing provisions of another order issued pursuant to the act unless the Secretary determines that a greater volume of Class I milk is disposed of from such plant to retail or wholesale outlets (except fluid milk plants) in the Bluefield marketing area than in the marketing area regulated pursuant to such other order.

(b) Any plant qualified pursuant to § 1012.7 (b) or (c) which would be subject to the classification and pricing provisions of another order issued pursuant to the act unless such plant has qualified as a fluid milk plant pursuant to § 1012.7 (c) for each month during the preceding August through January period.

DETERMINATION OF UNIFORM PRICE

§ 1012.70 *Net obligation of handlers.* The net obligation of each handler for producer milk received at his fluid milk plant(s) during each month shall be a sum of money computed by the market administrator as follows: (a) Multiply the pounds of such milk in each class by the applicable class price; (b) add together the resulting amounts; (c) add the amounts computed by multiplying the pounds of overage deducted from each class by the applicable class price; (d) add or subtract, as the case may be, an amount necessary to correct errors discovered by the market administrator in the verification of reports of such handler of his receipts and utilization of skim milk and butterfat for previous months; and (e) add the amount obtained in multiplying the difference between the Class II price for the preceding month and the Class I price for the current month by the hundredweight of producer milk classified in Class II during the preceding month, or the hundredweight of milk subtracted from Class I pursuant to § 1012.46 (a) (3) and (b), whichever is less.

§ 1012.71 *Computation of uniform prices for handlers.* For each of the months of August through March the market administrator shall compute a uniform price for the producer milk received by each handler as follows:

(a) Add to the amount computed pursuant to § 1012.70 the total of the location differential deductions to be made pursuant to § 1012.92;

(b) Add or subtract for each one-tenth percent that the average butterfat content of producer milk received by such handler is less or more, respectively, than 4.0 percent, an amount computed by multiplying such difference by the butterfat differential to producers, and multiplying the result by the total hundredweight of producer milk;

(c) Add the amount represented by any deductions made for eliminating fractions of a cent in computing the uniform price(s) for such handler for the preceding month;

(d) Divide the resulting amount by the total hundredweight of producer milk received by such handler. The result, less any fraction of a cent per hundredweight, shall be known as the uniform price for such handler for milk of 4.0 percent butterfat content, f. o. b. market.

§ 1012.72 *Computation of the uniform prices for base milk and for excess milk for handlers.* For each of the months of April through July, the market administrator shall compute uniform prices for base milk and for excess milk received by each handler as follows:

(a) Add to the amount computed pursuant to § 1012.70 the total of the location differential deductions made pursuant to § 1012.92;

(b) Add or subtract for each one-tenth percent that the average butterfat content of producer milk received by such handler is less or more, respectively, than 4.0 percent, an amount computed by multiplying such difference by the butterfat differential to producers, and multiplying the result by the total hundredweight of producer milk;

(c) Add the amount represented by any deductions made for eliminating fractions of a cent in computing the uniform price(s) for such handler for the preceding month;

(d) Subject to the conditions set forth in paragraph (e) of this section, compute the value of excess milk received by such handler from producers by multiplying the quantity of such milk by the Class II price;

(e) Compute the value of base milk received by such handler from producers by subtracting the value obtained pursuant to paragraph (d) of this section from the value obtained pursuant to paragraph (c) of this section: *Provided*, That if such resulting value is greater than an amount computed by multiplying the pounds of such base milk by the Class I price, such value in excess thereof shall be added to the value computed pursuant to paragraph (d) of this section to the extent that the excess price shall not exceed the base price as calculated herein. Any additional value remaining shall be prorated to the respective volumes of base milk and excess milk.

(f) Divide the value obtained pursuant to paragraph (e) of this section by the hundredweight of base milk. This result, less any fraction of a cent per hundredweight, shall be known as the uniform price for such handler for base milk of 4.0 percent butterfat content, f. o. b. market; and

(g) Divide the sum of the values obtained pursuant to paragraph (d) and the proviso of paragraph (e) of this section by the hundredweight of excess milk in producer milk. This result, less any fraction of a cent per hundredweight, shall be known as the uniform price for such handler for excess milk of 4.0 percent butterfat content.

BASE RATING

§ 1012.80 *Determination of daily base.* The daily base of each producer shall be calculated by the market administrator as follows: Divide the total pounds of milk received by all handlers from such producer during the months of September through February by the number of days from the first day milk is received from such producer during said months to the last day of February, inclusive, but not less than 120 days.

§ 1012.81 *Computation of base.* The base of each producer to be applied during the months of April through July shall be a quantity of milk calculated by the market administrator in the following manner: Multiply the daily base of such producer by the number of days such producer's milk was received by such handler during the month: *Provided*, That if the producer's milk was not received on a daily basis, the daily base shall be multiplied by the number of days during the month for which the milk production of such producer was received by such handler.

§ 1012.82 *Base rules.* The following rules shall apply in connection with the establishment of bases:

(a) A base shall be assigned to the producer for whose account milk is received at a fluid milk plant during the months of September through February.

(b) Bases may be transferred by notifying the market administrator in writing before the last day of any month for which such base is to be transferred to the person named in such notice only as follows:

(1) In the event of the death, retirement, or entry into military service of a producer, the entire base may be transferred to a member of such producer's immediate family who carries on the dairy operations.

(2) If a base is held jointly and such joint holding is terminated, the entire base may be transferred to one of the joint holders.

(3) The entire daily base of a producer may be removed from one handler to another handler regulated under this order.

§ 1012.83 *Announcement of established bases.* On or before April 1 of each year, the market administrator shall notify each producer and the handler receiving milk from such producer of the daily base established by such producer.

PAYMENTS

§ 1012.90 *Payments to producers.* Each handler shall make payment to each producer for milk received from such producer as follows:

(a) On or before the 15th day after the end of each month, each handler shall make payment to each producer for milk which was received from him during the month at not less than the uniform price computed pursuant to § 1012.71 for the months of August through March, and at not less than the uniform price for base milk computed pursuant to § 1012.72 with respect to base milk received from such producer

and at not less than the uniform price for excess milk computed pursuant to § 1012.72 with respect to excess milk received from such producer for the months of April through July, subject to the following adjustments: (1) The butterfat differential pursuant to § 1012.91, (2) the location differential pursuant to § 1012.92, (3) marketing service deductions pursuant to § 1012.94, (4) proper deductions authorized in writing by the producer, and (5) adjustments for errors in calculating payment to such individual producer for past months: *Provided*, That with respect to producers whose milk was caused to be delivered to such handler by a cooperative association which is authorized to collect payment for such milk, the handler shall, if requested by the cooperative association, pay such cooperative association on or before the 13th day after the end of each month, an amount equal to the sum of the individual payments otherwise payable to such producers in accordance with this paragraph;

(b) In making the payments to producers pursuant to paragraph (a) of this section, each handler shall furnish each producer from whom he had received milk with a supporting statement in such form that it may be retained by the producer, which shall show for each month:

(1) The month and identity of the handler and of the producer;

(2) The daily and total pounds and the average butterfat content of milk received from such producer;

(3) The minimum rate or rates at which payment to such producer is required pursuant to the order;

(4) The rate which is used in making the payment, if such rate is other than the applicable minimum rate;

(5) The amount or the rate per hundredweight and nature of each deduction claimed by the handler; and

(6) The net amount of payment to such producer.

§ 1012.91 *Butterfat differential to producers.* The applicable uniform prices to be paid each producer pursuant to § 1012.90 shall be increased or decreased for each one-tenth of one percent which the butterfat content of his milk is above or below 4.0 percent, respectively, at the rate determined by multiplying the pounds of butterfat in the producer milk of such handler allocated to Class I and Class II milk pursuant to § 1012.46 (b) by the respective butterfat differential for each class, dividing the sum of such values by the total pounds of such butterfat, and rounding the resultant figure to the nearest one-tenth of a cent.

§ 1012.92 *Location differential to producers.* In making payment to producers pursuant to § 1012.90, the applicable uniform prices to be paid for producer milk received at a fluid milk plant located 50 miles or more from the nearest of the following listed places, by the shortest hard-surfaced highway distance, as determined by the market administrator, shall be reduced according to the location of the fluid milk plant where such milk was received at the following rate: County Courthouse, Prince-

ton, West Virginia; City Hall, Bluefield, West Virginia; or City Hall, Welch, West Virginia.

Distance in miles	Rate per hundredweight (cents)
50 but not less than 60	10
For each additional 10 miles (or fraction thereof) an additional	1.5

§ 1012.93 *Adjustment of accounts.* Whenever audit by the market administrator of any handler's reports, books, records, accounts, or verification of weights and butterfat tests of milk or milk products disclose errors, resulting in money due a producer or the market administrator from such handler, or due such handler from the market administrator, the market administrator shall notify such handler of any amount so due, and payment thereof shall be made on or before the next date for making payments, as set forth in the provisions under which such error occurred.

§ 1012.94 *Marketing services.* (a) Except as set forth in paragraph (b) of this section, each handler, in making payments to producers for milk (other than milk of his own production) pursuant to § 1012.90, shall deduct 6 cents per hundredweight, or such amount not exceeding 6 cents per hundredweight, as may be prescribed by the Secretary, and shall pay such deductions to the market administrator on or before the 15th day after the end of each month. Such moneys shall be used by the market administrator to provide market information and to check the accuracy of the testing and weighing of their milk for producers who are not receiving such service from a cooperative association.

(b) In the case of producers who are members of a cooperative association which the Secretary has determined is actually performing the services set forth in paragraph (a) of this section, each handler shall make, in lieu of the deductions specified in paragraph (a) of this section, such deductions from the payments, to be made to such producers as may be authorized by the membership agreement or marketing contract between such cooperative association and such producers on or before the 15th day after the end of each month, and pay such deductions to the cooperative association of which such producers are members, furnishing a statement showing the amount of any such deductions and the amount and average butterfat test of milk for which such deduction was computed for each producer. In lieu of this statement, a handler may authorize the market administrator to furnish such cooperative association the information reported for such producers pursuant to § 1012.90 (b).

§ 1012.95 *Expense of administration.* As his prorata share of the expense of administration of this part, each handler shall pay to the market administrator on or before the 15th day after the end of the month for such month 5 cents per hundredweight, or such amount not exceeding 5 cents per hundredweight, as the Secretary may prescribe with respect to all (a) receipts of producer milk including such handler's own production, (b) other source milk at a fluid milk

plant which is classified as Class I milk and, (c) Class I disposed of during the month on routes (including routes operated by vendors) to retail or wholesale outlets (except fluid milk plants) located in the marketing area from a nonfluid milk plant.

§ 1012.96 *Termination of obligations.* The provisions of this section shall apply to any obligation under this part for the payment of money.

(a) The obligation of any handler to pay money required to be paid under the terms of this part shall, except as provided in paragraphs (b) and (c) of this section, terminate two years after the last day of the calendar month during which the handler's utilization report on the milk involved in such obligation, unless within such two-year period the market administrator notifies the handler in writing that such money is due and payable. Service of such notice shall be complete upon mailing to the handler's last known address, and it shall contain, but need not be limited to, the following information:

- (1) The amount of the obligation;
- (2) The month(s) during which the milk, with respect to which the obligation exists, was received or handled; and
- (3) If the obligation is payable to one or more producers or to an association of producers, the name of such producer(s) or association of producers, or if the obligation is payable to the market administrator, the account for which it is to be paid.

(b) If a handler fails or refuses, with respect to any obligation under this part, to make available to the market administrator or his representatives all books and records required by this part to be made available, the market administrator may, within the two-year period provided for in paragraph (a) of this section, notify the handler in writing of such failure or refusal. If the market administrator so notifies a handler, the said two-year period with respect to such obligation shall not begin to run until the first day of the calendar month following the month during which all such books and records pertaining to such obligation are made available to the market administrator or his representatives.

(c) Notwithstanding the provisions of paragraphs (a) and (b) of this section, a handler's obligation under this part to pay money shall not be terminated with respect to any transaction involving fraud or wilful concealment of a fact, material to the obligation, on the part of the handler against whom the obligation is sought to be imposed.

(d) Any obligation on the part of the market administrator to pay a handler any money which such handler claims to be due him under the terms of this part shall terminate two years after the end of the calendar month during which the milk involved in the claim was received if an underpayment is claimed, or two years after the end of the calendar month during which the payment (including deduction or set-off by the market administrator) was made by the handler if a refund on such payment is

claimed, unless such handler within the applicable period of time, files, pursuant to section 8c (15) (A) of the act, a petition claiming such money.

EFFECTIVE TIME, SUSPENSION OR TERMINATION

§ 1012.100 *Effective time.* The provisions of this part or any amendment to this part shall become effective at such time as the Secretary may declare and shall continue in force until suspended or terminated pursuant to § 1012.101.

§ 1012.101 *Suspension or termination.* The Secretary may suspend or terminate this part or any provisions of this part whenever he finds this part or any provisions of this part obstructs or does not tend to effectuate the declared policy of the act. This part shall terminate, in any event, whenever the provisions of the act authorizing it cease to be in effect.

§ 1012.102 *Continuing obligations.* If, upon the suspension or termination of any or all provisions of this part, there are any obligations thereunder, the final accrual or ascertainment of which requires further acts by any person (including the market administrator), such further acts shall be performed notwithstanding such suspension or termination.

§ 1012.103 *Liquidation.* Upon the suspension or termination of the provisions of this part, except this section, the market administrator, or such liquidating agent as the Secretary may designate, shall, if so directed by the Secretary liquidate the business of the market administrator's office, dispose of all property in his possession or control, including accounts receivable, and execute and deliver all assignment or other instruments necessary or appropriate to effectuate any such disposition. If a liquidating agent is so designated, all assets, books, and records of the market administrator shall be transferred promptly to such liquidating agent. If, upon such liquidation, the funds on hand exceed the amounts required to pay outstanding obligations of the office of the market administrator and to pay necessary expenses of liquidation and distribution, such excess shall be distributed to contributing handlers and producers in an equitable manner.

MISCELLANEOUS PROVISIONS

§ 1012.110 *Agents.* The Secretary may, by designation in writing, name any officer or employee of the United States to act as his Agent or Representative in connection with any of the provisions of this part.

§ 1012.111 *Separability of provisions.* If any provision of this part, or its application to any person or circumstances is held invalid, the application of such provision and of the remaining provisions of this part, to other persons or circumstances shall not be affected thereby.

Issued at Washington, D. C., this 1st day of August 1956.

[SEAL] ROY W. LENNARTSON,
Deputy Administrator.

[F. R. Doc. 56-6271; Filed, Aug. 3, 1956; 8:48 a. m.]

[7 CFR Parts 960, 963]

[Docket Nos. AO-253-A2, AO-233-A6]

HANDLING OF MILK IN AKRON, OHIO, AND STARK COUNTY, OHIO, MARKETING AREAS

NOTICE OF HEARING ON PROPOSED AMENDMENTS TO TENTATIVE MARKETING AGREEMENTS AND ORDERS

Pursuant to the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et. seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), notice is hereby given of a joint public hearing to be held in the Social Hall, YMCA, 80 West Center Street, Akron, Ohio, beginning at 10:00 a. m., e. d. t., August 22, 1956, for the purpose of receiving evidence with respect to proposed amendments hereinafter set forth, or appropriate modifications thereof, to the tentative marketing agreements heretofore approved by the Secretary of Agriculture and to the orders, as now in effect, regulating the handling of milk in the Akron, Ohio, and Stark County, Ohio, marketing areas. These proposed amendments have not received the approval of the Secretary of Agriculture.

Amendments to the orders, as in effect, were proposed as enumerated below. Proposal No. 1, to redesignate the Akron, Ohio, marketing area to include, in addition to territory now included, the Stark County, Ohio, marketing area and additional territory, (Sections 6 and 7 of Lake Township, Stark County, Ohio), contemplates suspension of all provisions of Order No. 63 with a merger of the marketing service funds, administrative funds, and producer settlement funds of the present orders upon the adoption of such redesignation. This proposal raises the issue as to whether the present provisions of Order No. 60, regulating the handling of milk in the Akron, Ohio, marketing area, would tend to effectuate the declared policy of the act if applied to the marketing area, as proposed to be redesignated, and if not, what modifications of the provisions of the order, in effect, are appropriate to effectuate the declared policy of the act.

Proposed by the Akron Milk Producers', Inc., and the Stark County Milk Producers' Association:

1. Delete § 960.3 *Marketing area* and insert in lieu thereof the following:

§ 960.3 *Marketing area.* The "Akron-Stark County, Ohio, marketing area" hereinafter referred to as "marketing area" means all territory, including but not limited to all municipal corporations within the boundaries of: Summit County; and including Franklin, Ravenna, Brimfield, and Safford Townships in Portage County; and Lots 5, 6, 7, 8, 9, 10, 15, 16, 17, 18, 19, 20, 25, 26, 27, 28, 29, 30, 35, 36, 37, 38, 39, and 40 in Randolph Township in Portage County; Smith Township in Mahoning County, Ohio, except Great Lot 35 thereof; Knox Township of Columbiana County, Ohio; Stark County, Ohio, except Paris and Sugarcreek Townships; and including Sections 1, 2, 3, 10, 11,

and 12, in Sugarcreek Township of Wayne County, Ohio.

2. Amend § 960.7 *Producer* by inserting at the end thereof the following: "A person other than a Producer-handler who produces milk and who holds only a Stark County permit or whose milk is received at a pool plant which is only permitted to distribute milk outside of the territorial limits of the Cities of Alliance, Canton or Massillon in Stark County, is a Producer."

3. Add a new § 960.15 *Eligible milk* reading as follows:

§ 960.15 *Eligible milk.* "Eligible milk" means the amount of milk received by a handler from a producer during each of the delivery periods of April through June which is not in excess of such producer's daily average quota computed pursuant to § 960.53 multiplied by the number of days in such delivery period on which such producer delivered milk to such handler: Provided, that with respect to any producer on "every-other-day" delivery to a pool plant, the days of non-delivery shall be considered as days of delivery for purposes of this section and of § 960.53.

4. Add a new § 960.16 *Ineligible milk* reading as follows:

§ 960.16 *Ineligible milk.* "Ineligible milk" means the amount of milk received by a handler from a producer during each of the delivery periods of April through June which is in excess of eligible milk received from such producer during such delivery period, and shall include all milk received from a producer for whom no daily average quota can be computed pursuant to § 960.53.

5. Amend § 960.22 (1) (2) by deleting the period at the end thereof and adding the following: "and the name of each handler who received producer milk during the preceding month and the percentages of such milk which was classified as Class I milk and as Class II milk."

6. Delete § 960.50 *Class I price* and insert in lieu thereof the following:

§ 960.50 *Class I price.* The minimum Class I price per hundredweight to be paid by each handler f. o. b. his pool plant for milk of 3.5 percent butterfat content received from producers or from co-operative associations during the month, which is classified as Class I utilization, shall be the higher of the prices computed in § 960.51 (a) or (b) plus \$2.25 during all months of the year as increased or decreased by the plus or minus adjustments of the supply-demand provisions of Federal Order No. 75 regulating the handling of milk in the Cleveland, Ohio, marketing area.

7. Amend § 960.51 *Class II prices* by inserting at the end of this section immediately preceding paragraph (a) the following: "Provided, That the minimum price for such milk used to produce cottage cheese shall be the higher of the prices computed pursuant to paragraph (a) or (b) of this section plus thirty cents (30¢)."

8. Add a new § 960.53 *Determination of eligible milk quota* reading as follows:

§ 960.53 *Determination of eligible milk quota for each producer.* Subject

to the rules set forth in § 960.54 the market administrator shall determine quotas for producers as follows: During each of the delivery periods of April through June inclusive, of each year beginning with 1958, the daily quota of each producer whose milk was received by a handler(s) on not less than thirty (30) days during the immediately preceding months of October through December, inclusive, shall be a quantity computed by dividing such producer's total pounds of milk delivered in the 3-month period by the number of days from the date of the first delivery to the end of such 3-month period.

9. Add a new § 960.54 *Quota rules* reading as follows:

§ 960.54 *Quota rules.* (a) An eligible milk quota shall apply to deliveries of milk by the producer for whose account that milk was delivered during the quota-forming period.

(b) The quota of a producer may be moved from one handler to another and may be transferred from such producer to another producer.

10. Renumber § 960.62 to become § 960.64.

11. Add a new § 960.62 *Computation of ineligible milk price* reading as follows:

§ 960.62 *Computation of ineligible milk price.* For each of the delivery periods of April through June the market administrator shall compute the uniform price per hundredweight for ineligible milk of 3.5 percent butterfat content by:

(a) Computing the total value of 3.5 percent butterfat basis on ineligible milk included in these computations by multiplying the hundredweight of such milk not in excess of the total quantity of Class II included in these computations by the price for Class II milk of 3.5 percent butterfat content, multiplying the hundredweight of such milk in excess of the total hundredweight of such Class II milk by the price for Class I milk of 3.5 percent butterfat content, and adding together the resulting amounts; and

(b) Dividing the total value of ineligible milk obtained in paragraph (a) of this section by the total hundredweight of such milk, and adjusting to the nearest cent.

12. Add a new § 960.63 *Computation of eligible milk price*, reading as follows:

§ 960.63 *Computation of eligible milk price.* For each of the delivery periods of April through June the Market Administrator shall compute the uniform price per hundredweight for eligible milk of 3.5 percent butterfat content f. o. b. the marketing area, received from producers by:

(a) Subtracting the value of ineligible milk obtained in § 960.62 (a) from the aggregate value of milk computed pursuant to § 960.61 (a) through (c) and adjusting by any amount involved in adjusting the uniform price of ineligible milk to the nearest cent;

(b) Dividing the amount obtained in paragraph (a) of this section by the total hundredweight of eligible milk included in these computations; and

(c) Subtracting not less than 4 cents nor more than 5 cents from the amount computed pursuant to paragraph (b) of this section.

13. Insert a new § 960.82 *Exemptions* reading as follows:

§ 960.82 *Exemptions.* The substantive provisions of §§ 960.15, 960.16, 960.53, 960.54, 960.62, and 960.63 shall not become effective until October 1, 1957.

By the Dairy Branch, Agricultural Marketing Service:

14. Make such changes as may be required to make the orders in their entirety conform with any amendments thereto which may result from this hearing.

Copies of this notice of hearing and the orders now in effect, may be procured from the Market Administrator, Room 213, Eastgate Center, 526 S. Canton Rd., Akron 12, Ohio, or 614 Renkert Building, Canton 2, Ohio, or from the Hearing Clerk, United States Department of Agriculture, Room 112, Administration Building, Washington 25, D. C., or may be there inspected.

Dated: August 1, 1956.

[SEAL] ROY W. LENNARTSON,
Deputy Administrator.

[F. R. Doc. 56-6270; Filed, Aug. 3, 1956;
8:48 a. m.]

[7 CFR Part 1003]

HANDLING OF DOMESTIC DATES PRODUCED OR PACKED IN LOS ANGELES AND RIVERSIDE COUNTIES OF CALIFORNIA

NOTICE OF PROPOSED RULE MAKING WITH RESPECT TO ESTABLISHING FREE, RESTRICTED AND WITHHOLDING PERCENTAGES FOR 1956-57 CROP YEAR

Notice is hereby given that there is being considered a proposed rule to establish a free percentage of 75 percent, a restricted percentage of 25 percent, and a withholding percentage of 33.3 percent, in connection with the handling of marketable Deglet Noor dates during the 1956-57 crop year, beginning on August 1, 1956, and ending July 31, 1957. The proposed rule, which is based on the recommendation of the Date Administrative Committee and other information available to the Secretary, would be established in accordance with the applicable provisions of Marketing Agreement No. 127 and Marketing Order No. 103 (20 F. R. 5056) regulating the handling of domestic dates produced or packed in Los Angeles and Riverside Counties of California, effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.).

Consideration will be given to any data, views, or arguments pertaining thereto which are filed in triplicate with the Director, Fruit and Vegetable Division, Agricultural Marketing Service, U. S. Department of Agriculture, Washington 25, D. C., and received not later than the close of business on the tenth day after the date of the publication of this notice in the FEDERAL REGISTER, except that, if said tenth day after publication should fall on a legal holiday, Saturday, or Sunday, such submission must be received by the Director not later than the close of business on the next following business day.

The proposed percentages for marketable Deglet Noor dates are based on estimates submitted by the Date Administrative Committee, as follows:

Item	1,000 pounds
1. Uncertified handler carryin.....	4,524
2. Estimated marketable production.....	27,456
3. Total subject to regulation.....	31,980
4. Estimated trade demand.....	24,250
5. Plus desirable carryout.....	4,000
6. Less certified handler carryin.....	4,000
7. Free poundage.....	24,250
8. Restricted poundage (Item 3 minus 7).....	7,730

Although the excess of 7,730,000 pounds approximates 24.17 percent of the estimated supply subject to regulation, it appears desirable to round the restricted percentage to 25 percent, making the free percentage 75 percent and the withholding percentage 33.3 percent. The estimated trade demand of 24,250,000 pounds compares with shipments of whole and pitted Deglet Noor dates in the 1955-56 crop year of only 20,841,000 pounds. The committee's estimate for 1956-57 may be too high, and rounding the restricted percentage as indicated would provide a slightly smaller free supply with better opportunity of achieving stabilized prices.

No restriction is proposed on the quantity of marketable Zahidi and Khadrawy dates which may be handled. Both of these varieties receive limited distribution outside the production area and hence offer little competition to the Deglet Noor dates.

Average return to California producers for 1956 crop dates will not exceed the price level specified in section 2 (1) of the aforesaid act.

The proposed rule is as follows:

§ 1003.204 *Free, restricted and withholding percentages.* The free percentage, restricted percentage, and withholding percentage of marketable dates of the Deglet Noor variety shall be, for the crop year beginning August 1, 1956 and ending July 31, 1957, as follows: Free percentage, 75 percent; restricted percentage, 25 percent; and withholding percentage, 33.3 percent.

Dated: July 31, 1956.

[SEAL] S. R. SMITH,
Director,
Fruit and Vegetable Division.

[F. R. Doc. 56-6292; Filed, Aug. 3, 1956;
8:51 a. m.]

DEPARTMENT OF LABOR

Wage and Hour Division

[29 CFR Part 655]

[Administrative Order No. 465]

PUERTO RICO

NOTICE OF RESIGNATION AND APPOINTMENT
OF EMPLOYER MEMBER OF INDUSTRY
COMMITTEE

Leonard Tuttleman, a resident of Puerto Rico, having resigned from Industry Committee No. 22-C, the Secretary of Labor, pursuant to authority under the Fair Labor Standards Act of 1938 (52 Stat. 1060, as amended; 29 U. S. C. 201 et seq.), hereby appoints Sam Schweitzer, another resident of Puerto Rico, to serve in his stead on such Committee as a representative of employers.

Signed at Washington, D. C., this 31st day of July 1956.

[SEAL] JAMES P. MITCHELL,
Secretary of Labor.

[F. R. Doc. 56-6289; Filed, Aug. 3, 1956;
8:51 a. m.]

FEDERAL COMMUNICATIONS
COMMISSION

[47 CFR Part 3]

[Docket No. 11747]

RADIO BROADCAST SERVICES

NOTICE OF PROPOSED RULE MAKING

In the matter of amendment of § 3.606 Table of assignments, Television Broadcast Stations (Springfield, Illinois-St. Louis, Missouri).

In the third sentence of paragraph 3 of the Notice of Proposed Rule Making (FCC 56-747) released in the above-captioned matter on July 25, 1956, "Channel 3" should read "Channel 26".

Released: July 30, 1956.

FEDERAL COMMUNICATIONS
COMMISSION,
DEE W. PINCOCK,
Acting Secretary.

[SEAL] [F. R. Doc. 56-6260; Filed, Aug. 3, 1956;
8:46 a. m.]

Any person desiring to be heard or to make any protest with reference to said application should on or before the 16th day of August 1956, file with the Federal Power Commission, Washington 25, D. C., a petition or protest in accordance with the Commission's rules of practice and procedure. The application is on file and available for public inspection.

[SEAL]

J. H. GUTRIDE,
Acting Secretary.

[F. R. Doc. 56-6263; Filed, Aug. 3, 1956;
8:46 a. m.]

[Docket No. E-6586]

JOHN H. KERR PROJECT

NOTICE OF REQUEST FOR APPROVAL OF RATES
AND CHARGES FOR SALE OF POWER BY
SOUTHEASTERN POWER ADMINISTRATION

AUGUST 1, 1956.

In the matters of United States Department of the Interior, Southeastern Power Administration, John H. Kerr Project.

Notice is hereby given that pursuant to the provisions of the Flood Control Act of 1944 (58 Stat. 890) the Assistant Secretary of the Interior filed with the Federal Power Commission for approval, certain rates and charges proposed by the Southeastern Power Administration (SEPA), an agency of the Department of the Interior, for the sale of electric energy generated at the John H. Kerr Project on the Roanoke River in the State of Virginia, but allocated and to be delivered to the State of North Carolina.

The proposed rates and charges for which approval is requested consist of (1) a standard Wholesale Firm Power Rate Schedule K-A-2, applicable to public bodies and cooperatives served by Carolina Power and Light Company (the Carolina Company) from its system for the account of SEPA, and (2) rates and charges contained in a contract between SEPA and Carolina Power and Light Company covering the sale of power to the company.

The proposed Wholesale Firm Power Rate Schedule K-A-2 provides for a monthly demand charge of \$0.90 per kw and an energy charge of 4.5 mills per kwh. The minimum bill is the demand charge.

The contract with Carolina Company provides for the purchase of various classes of power and energy by the Carolina Company and for transmission and transfer service by Carolina Company. SEPA will deliver to Carolina Company 1/3 of the dependable and non-dependable capacity of the Kerr Project. Carolina Company will transfer a portion, up to 30,000 kw of the dependable capacity it receives to qualified SEPA customers. The remainder of such dependable capacity received by Carolina Company is retained by Carolina Company for its own use. Certain obligations are specified as to the quantities of energy to be delivered by SEPA and to be taken by Carolina Company. The contract also provides for the sale of dump energy by SEPA and the use of generating units at the project as condensers by Carolina

NOTICES

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

[Gallup Area Office Relegation Order 2,
Amdt. 4]

NAVAJO URANIUM PROSPECTING AND
MINING PERMITS

REDELEGATION OF AUTHORITY

Order 2 (19 F. R. 8675) as amended (20 F. R. 2894, 3941 and 8780) is further amended as hereinafter indicated.

A new section is added to Part 3 under the heading, Functions Relating To Lands and Minerals, to read as follows:

Sec. 3.27 Navajo uranium prospecting and mining permits. The approval of tribal prospecting, drilling, and exploration permits and mining permits covering uranium and other minerals associated with it, on forms approved by the Commissioner of Indian Affairs, pursuant to 25 CFR Part 186.

W. WADE HEAD,
Area Director.

Approved: July 31, 1956.

E. J. Utz,
Acting Commissioner.

[F. R. Doc. 56-6256; Filed, Aug. 3, 1956;
8:45 a. m.]

Bureau of Land Management

NEVADA

NOTICE OF PROPOSED WITHDRAWAL AND
RESERVATION OF LANDS

Correction

In Federal Register Document 56-5701, published at page 5378 of the issue

for Wednesday, July 18, 1956, the third line of the land description for Pine Creek Forest Camp should read: "T. 11 N., R. 45 E. (unsurveyed)".

FEDERAL POWER COMMISSION

[Docket No. E-6699]

NORTHERN STATES POWER CO.

NOTICE OF APPLICATION SEEKING ORDER AUTHORIZING
ISSUANCE OF FIRST MORTGAGE
BONDS

JULY 31, 1956.

Take notice that on July 26, 1956, an application was filed with the Federal Power Commission, pursuant to section 204 of the Federal Power Act, by Northern States Power Company ("Applicant"), a corporation organized under the laws of the State of Minnesota, and doing business in the States of North Dakota, South Dakota and Minnesota, with its principal business office at Minneapolis, Minnesota, seeking an order authorizing the issuance, by competitive bidding, of \$15,000,000 principal amount of its First Mortgage Bonds, Series due 1986. Applicant proposes to issue said bonds on or about September 20, 1956. The bonds will be dated as of September 1, 1956, and will mature on September 1, 1986. The interest rate of said bonds will be determined by competitive bidding. Proceeds from the sale of said bonds will be added to general funds of Applicant and will be used for the payment of certain bank loans, for expenditures for additions and improvements to utility properties, for acquisition from a non-affiliated utility company of certain electric utility properties which will be the subject of a separate application to the Commission.

Company. In addition, provision is made for Carolina Company to (A) supply at the project energy rate (4.5 mills per kwh), to those customers not owning generating equipment, the difference between such customers' energy requirements for any month and the amount of project energy available to such customers during that month (deficiency energy); and (B) supply under its applicable rate schedule, any additional demands and the energy associated therewith, required by the preference customers over and above the contract demand obligations of SEPA. The rates for these services are as follows:

Deliveries by SEPA:
Demand charges:
Dependable capacity—\$0.90 per kw per month.

Non-dependable capacity—\$1.470 per month, plus 1.25 cents per kw per day during the period which secondary capacity is guaranteed to be available for three successive weeks.

Energy charges:
Energy accompanying above capacity—4.5 mills per kwh.

Dump energy—3.0 mills per kwh.
Charge for condenser operation—\$5.00 per hour per unit.

SEPA will pay the following charges to the Carolina Company:

For transmitting power and energy to SEPA customers:

Zone 1 (100 miles radius)—0.93 mill per kwh.

Zone 2 (165 miles radius)—1.73 mills per kwh.

The wheeling charges do not apply to the delivery of "deficiency energy."

Under a provision of Rate Schedule K-A-2, it is provided that in the event the Carolina Company increases its rate for "deficiency energy" upon the order of a regulatory body having jurisdiction thereof, that SEPA will reduce its customers' power bills for project power and energy so that the customers' payments for such power and energy and "deficiency energy" will be no higher than if the project rates were applied to such total power and energy.

Any person desiring to make comments or suggestions for Commission consideration with respect to the foregoing should submit the same in writing on or before August 14, 1956, to the Federal Power Commission, Washington 25, D. C. The proposed rates and contract agreements in their entirety are on file with the Commission and available for inspection.

[SEAL]

J. H. GUTRIE,
Acting Secretary.

[F. R. Doc. 56-6286; Filed, Aug. 3, 1956;
8:51 a. m.]

FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 11802; FCC 56-779]

LETCHER BROADCASTING CORP. (WNKY)

MEMORANDUM OPINION AND ORDER DESIGNATING APPLICATION FOR HEARING ON STATED ISSUES

In re application of Letcher Broadcasting Corporation (WNKY), Neon,

Kentucky, Docket No. 11802, File No. BP-10355; for construction permit.

1. The Commission has before it for consideration a "Protest And Petition For Reconstruction" filed on July 13, 1956, pursuant to sections 309 (c) and 405 of the Communications Act of 1934, as amended, by Folkways Broadcasting Company, Inc., licensee of Station WTCW, Whitesburg, Kentucky (920 kc, 1 kw, D), and directed to the Commission's action of June 13, 1956, in granting without hearing the above-captioned application of Letcher Broadcasting Corporation (WNKY) for a construction permit for a new standard broadcast station at Neon, Kentucky, to operate on 1450 kilocycles with a power of 250 watts, unlimited time, File No. BP-10355.

2. Folkways Broadcasting Company, Inc. (hereinafter referred to as WTCW) claims that it is a "party in interest" and "person aggrieved or whose interests are adversely affected" within the meaning of those terms in sections 309 (c) and 405 of the act because it will suffer economic injury as the result of the operation of WNKY in Neon, Kentucky, which city is 7.5 airline miles removed from Whitesburg, Kentucky, so that the two stations will be in competition for advertising revenue.

3. In support of its pleading, WTCW alleges that the public interest will not be served by the grant in question, that the area involved does not have sufficient economic resources to permit two standard broadcast stations to operate on an economically sound basis, and that the grant was not properly made on the basis of the application before the Commission.

4. WTCW claims that there are insufficient advertising resources in the area in question to support two stations because, according to the 1950 United States Census, the population of Neon, Kentucky is 1,055; that of Whitesburg, Kentucky, 1,393; and that of Letcher County 39,522 (though latest available figures place the County population at some six thousand fewer and the trend toward a diminishing population has not reversed itself); that at night WNKY's 250 watts operation will be limited to its 21.7 mv/m contour and provide interference-free service to less than two thousand people; that Letcher County (with a large number of coal mines) is economically depressed since the demand for coal has lessened; that even if WNKY took all of WTCW's revenues in Letcher County, about \$29,630 a year, WNKY still could not survive because WTCW's 1 kilowatt operation enables it to serve a wider area and WTCW has developed every substantial source of advertising revenue in the County; that WNKY would thus fail and a valuable frequency would have been wasted; and that even if WNKY did not fail, the competitive situation in a market which can support only one station would require programming economies on the part of WTCW and the public would then have a choice of two poor services instead of the one good service to which it is now accustomed.

5. WTCW also claims that WNKY is not legally qualified because it has made no showing of compliance with Article IX

of its Articles of Incorporation which states that business could commence "after the sum of \$10,000 capital is paid in cash or other property of equivalent value actually received and applied to the purposes to which the Corporation is formed." WTCW contends that, in the absence of such a showing, the Commission could not have found WNKY qualified to commence business.

6. WTCW further claims that WNKY is not financially qualified; that WNKY's estimated costs of construction (\$13,578-.25) and first-year operation (\$20,000) as well as its expected revenues are unrealistic; that operation by remote control as proposed requires at least an investment of \$1,000 for equipment for which no provision has been made; that salary expenses alone would amount to a minimum of \$15,000 per year; that WNKY could not operate for one year on the balance of \$5,000; that WNKY's amendment of May 11, 1956, submitting bank commitments for three of the stockholders was not in accordance with §§ 1.303 and 1.307 of the Commission's rules on verification and number of copies and is, therefore, ineffective to resolve questions of financial qualifications raised by the Commission's letter of May 1, 1956, to WNKY; that the balance sheet for W. Pearl Nolan, more than 14 months old when filed, did not show that he could meet his stock commitment and an up-to-date balance sheet should have been requested, especially because the application reflected that Mr. Nolan acquired a daily newspaper in Hazard subsequent to the date of his balance sheet; that the net income after Federal taxes for the past two years was not specifically shown for two stockholders and not properly shown for five other stockholders as required by FCC Form 301; that the financial statement of Dr. Sam Quillen was not dated; that the financial statement of another stockholder, Hillard Kincer, was fifteen months old when filed; and that in the face of these deficiencies the Commission acted improperly in finding the applicant financially qualified.

7. WTCW further claims that WNKY is not otherwise qualified because contrary to representation made in the application, a former officer and stockholder of the permittee corporation is still connected with WNKY; that this connection is a material matter because said person is not qualified to be "entrusted as officer, director, stockholder or station manager with a radio license"; and that the continuing connection of said person with WNKY raises a question as to whether complete disclosure was made to the Commission by the applicant in its amendment filed on March 23, 1956.

8. Because of all of the foregoing, WTCW requests the Commission to reconsider its action in granting without hearing the above-captioned application; and, upon reconsideration, to deny the application, or to designate the application for hearing on issues specified by the protestant and such others as the Commission may prescribe and make the protestant a party to the hearing; postpone the effective date of the grant in question pending hearing and decision

therein; and such other relief as may seem fitting and proper in the case.¹

9. WTCW specifies the following issues on which it requests the opportunity to present evidence at an evidentiary hearing:

a. To determine whether the applicant on the basis of information submitted in the application is financially qualified to construct, own, and operate the proposed radio station.

b. To determine whether or not the applicant is legally qualified to construct, own, and operate the proposed station.

c. To determine whether the applicant is otherwise qualified to construct, own, and operate a radio station.

d. To determine whether the omissions in the application of Letcher Broadcasting Corporation preclude the grant of the application.

e. To determine the adequacy of Letcher Broadcasting Corporation's financial ability to carry out its proposed operation in the event the revenues expected by it are not obtained.

f. To determine whether the radio advertising potential of the Whitesburg-Neon, Kentucky market is sufficient to support both Station WTCW and the proposed station.

g. To determine, if the foregoing issue is determined in the negative, whether:

(a) A grant of the application will jeopardize the continued existence of the local radio station in Whitesburg, Kentucky, with the result that the listening public will be left without adequate radio service, or (b) the radio service to be received from the Whitesburg station and the proposed station may reasonably be expected, as a result of neither station receiving adequate revenue, to be inferior in quality to that presently provided to the area from WTCW.

h. To determine whether any concealment was attempted on the part of the applicant with reference to the association or disassociation of Hence Eversole and the applicant.

i. To determine whether or not Hence Eversole has any interest in or connection with the applicant, and if so, the extent thereof.

j. To determine if Hence Eversole is qualified to have an interest in, or be associated with, a radio broadcast station.

k. To determine whether, in the light of the evidence adduced on the foregoing issues, the public interest, convenience, or necessity would be served by a grant of the application of Letcher Broadcasting Corporation for a construction permit.

10. In view of the facts that the protestant is licensee of standard broadcast Station WTCW, Whitesburg, Kentucky, which city is approximately 7.5 airline miles from Neon, Kentucky, where WNKY proposes to operate; and that

the two stations would, therefore, be in direct competition and that WTCW would suffer economic injury as a result thereof, we find that the protestant is a "party in interest" and a "person aggrieved or whose interests are adversely affected" within the meaning of sections 309 (c) and 405 of the Communications Act of 1934, as amended. In re T. E. Allen and Sons, Inc., 9 Pike and Fischer RR 197; Federal Communications Commission v. Sanders Brothers Radio Station, 309 U. S. 470 (9 Pike and Fischer RR 2008); Clarksville Broadcasting Co., 10 Pike and Fischer RR 1274, 1276. We further find that the protestant has, within the meaning of section 309 (c), specified with sufficient particularity the facts relied upon as showing the grant in question was improperly made or would otherwise not be in the public interest, with respect to the Issues it has designated as a, b, e, f and g (see paragraph 9 supra), to warrant designating the above-captioned application for hearing on those issues. But the Commission is not adopting said issues, and the burden of proceeding with the introduction of evidence and the burden of proof on each issue shall be on the protestant. Further, in making the above findings, and by including the issues set forth below, we do not determine or imply that any or all of these issues, even if the facts with respect thereto are as alleged by the protestant, are such that they could result in a determination that the instant grant was improper, contrary to the public interest, or should be set aside. We further find that WTCW has not specified with sufficient particularity, within the meaning of section 309 (c), the facts relied upon with respect to the Issues it has designated as c, d, h, i and j. Said Issues c, h, i and j are based upon allegations made by WTCW against a former officer and stockholder of WNKY, but WTCW has failed to show that the said party has any present ownership interest in WNKY to make consideration of his qualifications here pertinent. Issue d is unsupported as an issue separate and apart from Issue a, which covers the financial qualifications of WNKY.

11. Section 309 (c) provides that "the effective date of the Commission's action shall be postponed unless the Commission affirmatively finds for reasons set forth in the decision that the public interest requires that the grant remain in effect, in which event the Commission shall authorize the applicant to utilize the facilities or authorization in question pending the Commission's decision after hearing." We thus turn to the need for

*The Senate Report on H. R. 5614 amending section 309 (c) (1 Pike and Fischer RR 10:373) reads, in part, as follows:

"It must be recognized that there will be cases where protestants will plead the facts to which the Commission cannot demur, although, on the basis of all the facts available, it is clear that the likelihood is extremely remote that the protested grant will ultimately have to be set aside. In such circumstances, the Commission should not be precluded from considering whether the public interest requires the protested authorization to remain in effect but the Commission must affirmatively find and set forth reasons

the service proposed by the instant grantee. No standard broadcast station is presently licensed to serve Neon, Kentucky, and WTCW in Whitesburg, Kentucky, is a daytime only station. Therefore, WNKY would provide a first local radio outlet to Neon, giving it a vehicle of expression for local issues and providing radio time for local charitable, educational, religious and civic programs of special interest. In addition, WNKY would provide the first local nighttime service to Neon and the surrounding area. Although WTCW, operating with one kilowatt, already provides daytime radio service to all of the 48,210 persons residing within WNKY's proposed 0.5 mv/m contour, it is in the public interest to establish a second local transmission facility in the Neon-Whitesburg area. WTCW does not allege nor does the Commission find that the area in question has a second existing local transmission facility. Accordingly, a need exists for the establishment of a second service in the area to provide listeners an opportunity to choose between two locally originated programs and to bring to the area the stimulus of competition in local radio operations. In re Vermillion Broadcasting Corporation, 7 Pike and Fischer RR 602b (1953)."

12. It is apparent from the foregoing that there is a need for the service in question and that the public interest would be served by the initiation of such service, barring countervailing considerations. We turn, therefore, to the other aspect of the judgment—an interlocutory determination of the merits of the protest and the "likelihood that the grant in question would ultimately have to be set aside"—for the limited purpose of deciding whether the grant in issue should be stayed while an evidentiary hearing is being held on the protest. The protestant contends that the grantee is not financially qualified to construct and operate its proposed station for the reasons set forth in paragraph 6, supra. While WNKY's letter of May 11, 1956

in its decision as to why the public interest requires the grant to remain in effect.

"The Committee is well aware of the very real inconvenience to the public which would result if a grant is permitted to stay in effect and it is ultimately determined that the grant must be set aside and the service terminated. However, in exercising its limited discretion to continue a protested authorization in effect, the Commission would have to consider not only the need for the new service in question, but also the likelihood that the grant in question would ultimately have to be set aside. The Committee feels that these requirements will minimize the possibility of the public being deprived of a service on which it has come to rely. In any event, we do not believe that, to insure against the remote possibility that an operating service may have to be taken off the air, it is necessary or advisable to preclude any operation by a station pending a protest hearing regardless of any countervailing public interest considerations."

*The protestant, in the evidentiary hearing hereinafter provided for, will have full opportunity to develop supporting evidence for its position. After the evidentiary hearing and the Examiner's Initial Decision we will be able to make a final determination as to whether the public interest is served by the grant in question on the basis of the evidence of record.

¹ While WTCW also requests the Commission to postpone immediately the effective date of the grant until the Commission renders a decision on the subject Protest and Petition for Reconsideration in order to preserve the status quo, we hereby deny said request because we have expedited action on this instant Opinion and Order disposing of the subject Protest and Petition for Reconsideration.

transmitting the additional financial information was not verified in accordance with § 1.307 of our rules, the financial material itself, three separate bank commitments to lend money to three stockholders, was under oath. With this information and the data submitted in the application, the Commission was able to conclude that each of the 9 stockholders could meet his respective subscription of \$3,000 each. WTCW also contends that WNKY's estimated cost of construction of \$13,578 is "unrealistic", but has not supported this statement except to declare that a further expenditure of \$1,000 would be needed for remote control equipment. Even by adding \$1,000 to the estimated cost of construction it would appear that the \$27,000 capitalization of WNKY would be sufficient to meet initial construction and initial operating costs of the station, and that the applicant was financially qualified to receive a grant of its application. WTCW claims that WNKY is not legally qualified because there is no showing by WNKY that it has complied with Article IX of its Articles of Incorporation which states that the corporation could commence business after the sum of \$10,000 has been paid in. It is unnecessary for us to determine WNKY's exact corporate status because WNKY as a de facto corporation is legally qualified to file for and receive a construction permit from the Commission. Finally, although WTCW has offered no data as to its gross or net income, WTCW contends that the public interest would not be served by the grant because establishment of the proposed operation would force WTCW to render an inferior program service. We believe, as we stated in *Voice of Cullman*, 6 Pike and Fischer RR 164 (1950), that "both stations may survive either by attracting sufficient revenue or by reducing expenses without necessarily degrading their program service since quality or program service cannot be measured by cost alone."

13. In summary, we believe the showing made by WTCW (see paragraph 12, supra) does not countervail the factors hereinbefore pointed out in support of the conclusion that the public interest would be served by the grant in question. Moreover, for the reasons noted with respect to each of the issues included in the hearing provided for below, we believe that the likelihood of the grant having to be set aside is small. In these circumstances, we affirmatively find that the public interest requires the grant to remain in effect. In re applications of: Coos County Broadcasters, 13 Pike and Fischer RR 625; Donald F. Whitman, 13 Pike and Fischer RR 849.

14. Accordingly, it is ordered, That the subject Protest and Petition for Reconsideration is granted to the extent provided for below and is denied in all other respects; and that, pursuant to section 309 (c) of the Communications Act of 1934, as amended, the above-captioned application is designated for hearing at the offices of the Commission in Washington, D. C., on the following issues:

1. To determine whether the applicant on the basis of information submitted in the application is financially qualified to

construct, own and operate its proposed station.

2. To determine whether the applicant is legally qualified to construct, own and operate its proposed station.

3. To determine the adequacy of the applicant's financial ability to carry out its proposed operation in the event the revenues expected by it are not obtained.

4. To determine whether the radio advertising potential of the Whitesburg-Neon, Kentucky market is sufficient to support both Station WTCW and the station proposed by the applicant.

5. To determine, if Issue 4 is determined in the negative, whether: (a) A grant of the application will jeopardize the continued existence of Station WTCW in Whitesburg, Kentucky, with the result that the listening public will be left without adequate radio service, or (b) the radio service to be received from the Whitesburg station and the proposed station may reasonably be expected, as a result of neither station receiving adequate revenue, to be inferior in quality to that presently provided by WTCW.

6. To determine whether, in the light of the evidence adduced pursuant to the foregoing issues, the public interest, convenience, or necessity would be served by a grant of the application of Letcher Broadcasting Corporation for a construction permit.

It is further ordered, That the burden of proceeding with the introduction of evidence and the burden of proof as to each of the issues shall be on the protestant;

It is further ordered, That the protestant and the Chief of the Broadcast Bureau are hereby made parties to the proceeding herein and that:

1. The appearances by the parties intending to participate in the hearing shall be filed not later than August 29, 1956; and

2. The hearing on the above issues is to commence at 10:00 a. m. on September 27, 1956 before an Examiner to be specified by the Commission; and

3. The parties to the proceedings herein shall have fifteen (15) days after the issuance of the Examiner's decision to file exceptions thereto and seven (7) days thereafter to file replies to any such exceptions.

Adopted: July 30, 1956.

Released: July 31, 1956.

FEDERAL COMMUNICATIONS
COMMISSION,

[SEAL] DEE W. PINCOCK,
Acting Secretary.

[F. R. Doc. 56-6261; Filed, Aug. 3, 1956;
8:46 a. m.]

[Amdt. 0-23]

STATEMENT OF ORGANIZATION, DELEGATIONS
OF AUTHORITY AND OTHER INFORMATION
COMMERCIAL AND AMATEUR RADIO OPERATOR
EXAMINATION POINTS

The Commission having under consideration a modification of its amateur and commercial radio operator license examination points; and

It appearing that the number of examinations given does not warrant continued holding of quarterly examinations at Jackson, Mississippi, and that such examinations should instead be given semi-annually; and

It further appearing that for the same reason Butte, Montana should be changed from a semi-annual to an annual examination point and Tallahassee, Florida should be eliminated as an annual examination point; and

It further appearing that the amendment herein ordered is not substantive in nature and therefore compliance with the public rule making procedures required by section 4 (a) and (b) of the Administrative Procedure Act is not required and the amendment may be made effective September 10, 1956.

It is ordered, Pursuant to authority contained in section 0.341, under authority delegated to the Secretary after having secured approval of the Bureau responsible for the particular part or section of the rules involved, and to authority contained in sections 4 (i) and 303 (r) of the Communications Act of 1934, as amended, and section 3 (a) of the Administrative Procedure Act, that section 0.413 (c) (1) of Statement of Organization, Delegations of Authority and other Information, be amended as set forth below, effective September 10, 1956.

Adopted: July 31, 1956.

Released: July 31, 1956.

FEDERAL COMMUNICATIONS
COMMISSION,
[SEAL] DEE W. PINCOCK,
Acting Secretary.

1. Amend section 0.413 (c) (1) by removing Jackson, Mississippi from the "quarterly" listing, adding that city in alphabetical sequence to the "semi-annual" listing within this subsection.

2. Amend section 0.413 (c) (1) by removing from the "semi-annual" listing the city of Butte, Montana, adding this city in alphabetical sequence to the "annual" listing within this subsection.

3. Amend section 0.413 (c) (1) by removing from the "annual" listing the city of Tallahassee, Florida.

[F. R. Doc. 56-6262; Filed, Aug. 3, 1956;
8:46 a. m.]

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[Order 34]

REGIONAL AND ASSISTANT REGIONAL COMMISSIONERS (ALCOHOL AND TOBACCO TAX)

DELEGATION OF AUTHORITY TO ACCEPT OR REJECT CERTAIN OFFERS

Acceptance or rejection of offers in compromise of certain liabilities under Chapter 51, Internal Revenue Code of 1954.

1. There is hereby delegated to each Regional Commissioner and to each Assistant Regional Commissioner (Alcohol and Tobacco Tax) the authority to accept or reject offers in compromise of:

(a) Tax liabilities arising from:

(i) The illegal production of untaxed distilled spirits, wines, or beer, and
(ii) The failure to file returns of, or to pay, occupational taxes with respect to distilled spirits, wines, or beer, and

(b) Criminal liabilities of retail dealers in liquor arising from violations of the internal revenue laws relating to liquor, including the reuse of liquor bottles.

2. The exercise of the authority delegated herein to each Assistant Regional Commissioner (Alcohol and Tobacco Tax) shall be under the direction and supervision of his Regional Commissioner.

Issued: July 27, 1956.

Effective date: August 1, 1956.

[SEAL] RUSSELL C. HARRINGTON,
Commissioner.

[F. R. Doc. 56-6279; Filed, Aug. 3, 1956;
8:49 a. m.]

[Delegation Order 36]

**DIRECTOR OF INTERNATIONAL OPERATIONS
AUTHORITY EXTENDED TO PANAMA CANAL
ZONE, PUERTO RICO AND THE VIRGIN
ISLANDS**

Pursuant to the authority vested in me by Commissioner Delegation Order No. 33, dated June 6, 1956, it is hereby ordered:

1. Subject to the limitations contained in paragraph 2, there are delegated to the Director of International Operations the functions of administering the United States internal revenue laws in the Panama Canal Zone, Puerto Rico, and the Virgin Islands of the United States, and in all other areas of the world outside the United States and the territories of Alaska and Hawaii, to the extent of the authority delegated by Commissioner Delegation Order No. 32, dated May 1, 1956.

2. Nothing in this order shall be deemed to affect the procedures for administrative appeal existing immediately prior to August 1, 1956, or any function of the Assistant Regional Commissioner (Alcohol & Tobacco Tax), New York City Region.

3. This order is effective August 1, 1956.

Dated: July 31, 1956.

[SEAL] C. W. STOWE,
Assistant Commissioner.

[F. R. Doc. 56-6277; Filed, Aug. 3, 1956;
8:49 a. m.]

Office of the Secretary

[Treasury Dept. Order 150-42]

**PANAMA CANAL ZONE, PUERTO RICO, AND
THE VIRGIN ISLANDS**

**ADMINISTRATION OF INTERNAL REVENUE
LAWS**

By virtue of the authority vested in me as Secretary of the Treasury it is hereby ordered:

1. The Panama Canal Zone is removed from the Internal Revenue District, Jacksonville, and from the Atlanta Region;

and Puerto Rico and the Virgin Islands of the United States are removed from the Internal Revenue District, Lower Manhattan, and from the New York City Region.

2. The Commissioner shall, to the extent of authority otherwise vested in him, provide for the administration of the United States internal revenue laws in the Panama Canal Zone, Puerto Rico, and the Virgin Islands.

3. This order shall not be deemed to affect the procedures for administrative appeal existing immediately prior to August 1, 1956.

4. This order shall be effective as of August 1, 1956.

Dated: July 27, 1956.

[SEAL] DAVID W. KENDALL,
Acting Secretary of the Treasury.

[F. R. Doc. 56-6280; Filed, Aug. 3, 1956;
8:50 a. m.]

[Treasury Dept. Order 167-23; CGFR 56-33]

COMMANDANT, U. S. COAST GUARD

**DELEGATION OF FUNCTIONS RELATING TO AIDS
TO MARITIME NAVIGATION ON FIXED STRUCTURES**

By virtue of the authority vested in me by Reorganization Plan No. 26 of 1950 and 14 U. S. C. 631, there are transferred to the Commandant, U. S. Coast Guard, the functions of the Secretary of the Treasury under the act of June 4, 1956 (Public Law 550, 84th Congress), an act which relates to the establishment, maintenance, and operation of aids to maritime navigation on fixed structures.

Dated: July 27, 1956.

[SEAL] DAVID W. KENDALL,
Acting Secretary of the Treasury.

[F. R. Doc. 56-6276; Filed, Aug. 3, 1956;
8:48 a. m.]

**SECURITIES AND EXCHANGE
COMMISSION**

[File No. 1-1520]

GENERAL TIRE & RUBBER CO.

**NOTICE OF APPLICATION TO STRIKE FROM
LISTING AND REGISTRATION, AND OF OP-
PORTUNITY FOR HEARING**

JULY 31, 1956.

In the matter of General Tire & Rubber Company, 3¼ percent Cumulative Preferred Stock, \$100 Par Value, File No. 1-1520.

Midwest Stock Exchange has made application, pursuant to section 12 (d) of the Securities Exchange Act of 1934 and Rule X-12D2-1 (b) promulgated thereunder, to strike the above named security from listing and registration thereon.

The reasons alleged in the application for striking this security from listing and registration include the following:

As provided in Article III, section 4, of the Constitution of the Exchange, on June 14, 1956, this security was suspended from trading, and the Executive Committee directed the filing of this application for the following reason:

The Exchange has been informed by the Company that all but 1,771 shares of the subject security have been converted into its 4¼ percent Subordinated Debentures or 4¼ percent Preference Stock and transferable 5-year warrants for the purchase of common stock pursuant to an offer approved by the Company's stockholders on April 3, 1956.

The Midwest Stock Exchange does not feel that the small number of outstanding shares of the 3¼ percent Preferred Stock warrants the continuance of trading in the auction market.

Upon receipt of a request, on or before August 15, 1956, from any interested person for a hearing in regard to terms to be imposed upon the delisting of this security, the Commission will determine whether to set the matter down for hearing. Such request should state briefly the nature of the interest of the person, requesting the hearing and the position he proposes to take at the hearing with respect to imposition of terms. In addition, any interested person may submit his views or any additional facts bearing on this application by means of a letter addressed to the Secretary of the Securities and Exchange Commission, Washington 25, D. C. If no one requests a hearing on this matter, this application will be determined by order of the Commission on the basis of the facts stated in the application and other information contained in the official file of the Commission pertaining to the matter.

By the Commission.

[SEAL] ORVAL L. DUBOIS,
Secretary.

[F. R. Doc. 56-6264; Filed, Aug. 3, 1956;
8:46 a. m.]

[File No. 1-3823]

RHINELANDER PAPER CO.

**NOTICE OF APPLICATION TO STRIKE FROM
LISTING AND REGISTRATION, AND OF OP-
PORTUNITY FOR HEARING**

JULY 31, 1956.

New York Stock Exchange has made application, pursuant to section 12 (d) of the Securities Exchange Act of 1934 and Rule X-12D2-1 (b) promulgated thereunder, to strike the above named security from listing and registration thereon.

The reasons alleged in the application for striking this security from listing and registration include the following:

The outstanding amount thereof, after deducting concentrated holdings of the St. Regis Paper Company, has been so reduced as to make further dealings therein on the Exchange inadvisable in the opinion of the Exchange. Dealings on the Exchange in the Rhinelander Paper Company common stock were suspended before the opening of the trading session on July 23, 1956.

The St. Regis Paper Company pursuant to a prospectus dated March 15, 1956, under the Securities Act of 1933 offered to holders of the outstanding shares of the Common Stock of the Company, one share of Common Stock of St. Regis Paper Company in exchange for each

share of Common Stock of the Company. A report dated July 17, 1956, from the Transfer Department of the St. Regis Paper Company indicates the issuance of 538,060 shares of St. Regis Paper Company in exchange for a like number of shares of Rhinelander Paper Company, thus indicating that there remain outstanding in the hands of others than the St. Regis Paper Company 1,940 shares of Rhinelander Paper Company of the total of 540,000 shares issued and outstanding.

Upon receipt of a request, on or before August 16, 1956, from any interested person for a hearing in regard to terms to be imposed upon the delisting of this security, the Commission will determine whether to set the matter down for hearing. Such request should state briefly the nature of the interest of the person requesting the hearing and the position he proposes to take at the hearing with respect to imposition of terms. In addition, any interested person may submit his views or any additional facts bearing on this application by means of a letter addressed to the Secretary of the Securities and Exchange Commission, Washington 25, D. C. If no one requests a hearing on this matter, this application will be determined by order of the Commission on the basis of the facts stated in the application and other information contained in the official file of the Commission pertaining to the matter.

By the Commission.

[SEAL] ORVAL L. DuBois,
Secretary.

[F. R. Doc. 56-6265; Filed, Aug. 3, 1956;
8:47 a. m.]

SMALL BUSINESS ADMINISTRATION

[Delegation of Authority 20 (Revision 2)]

DEPUTY ADMINISTRATOR FOR PROCUREMENT
AND TECHNICAL ASSISTANCE

DELEGATION OF AUTHORITY

I. Pursuant to the authority vested in the Administrator by the Small Business Act of 1953, as amended, 67 Stat. 232, 15 U. S. C. 631 (Supp. II, 1952), as amended, 69 Stat. 547, 15 U. S. C. 631 (Supp. III, 1952), there is hereby delegated to the Deputy Administrator for Procurement and Technical Assistance the following authority:

A. General. To carry out all functions listed for the Deputy Administrator for Procurement and Technical Assistance in section 101 of SBA-100, Administrative Manual.

B. Specific. 1. To take any and all actions relating to matters involving Certificates of Competency, including the issuance or denial of such Certificates, under the statutory or other authority of this Administration.

2. To authorize and approve his personal travel and that of the employees of the Washington Office under his supervision except travel where actual subsistence expenses are requested.

3. To approve sick and annual leave, leave without pay not in excess of 30 days, and overtime work for employees under his supervision.

No. 151—6

C. Correspondence. 1. To sign all correspondence, except correspondence addressed to Members of Congress, relating to the Procurement and Technical Assistance Programs.

2. To sign correspondence addressed to staff members of Congressional Committees.

II. The specific authority delegated in I. B. 1 may not be redelegated.

III. All authorities delegated herein may be exercised by any member of SBA designated as Acting Deputy Administrator for Procurement and Technical Assistance.

Dated: July 19, 1956.

WENDELL B. BARNES,
Administrator.

[F. R. Doc. 56-6266; Filed, Aug. 3, 1956;
8:47 a. m.]

[Delegation of Authority 10 (Revision 1)]

DEPUTY ADMINISTRATOR FOR FINANCIAL
ASSISTANCE

DELEGATION OF AUTHORITY

I. Pursuant to the authority vested in the Administrator by the Small Business Act of 1953, as amended, 67 Stat. 232, 15 U. S. C. 631 (Supp. II, 1952) as amended, 69 Stat. 547, 15 U. S. C. 631 (Supp. III, 1952), there is hereby delegated to the Deputy Administrator for Financial Assistance the authority:

A. General. To carry out all functions listed for the Deputy Administrator for Financial Assistance in section 101 of SBA-100, Administrative Manual.

B. Specific. 1. To execute Authorizations and all modifications thereof for the disbursement of loan funds.

2. To approve or decline business and disaster loan applications and amendments thereof involving (a) split recommendations by the Loan Review Committee and the Regional Office, (b) unanimous recommendations by the Loan Review Committee and the Regional Office for declination of the application, and (c) unanimous recommendations by the Loan Review Committee and the Regional Office for the approval of the application.

3. To accept for processing disaster loan applications received after expiration of the six months' disaster period.

4. To take any and all actions (not limited to or specifically reserved by the Administrator) relating to the collection of loans and the liquidation of collateral.

5. To authorize or approve his personal travel and the travel of Washington Office employees under his supervision, except travel when actual subsistence expenses are requested.

6. To approve (a) sick and annual leave, (b) leave without pay not in excess of 30 days, and (c) overtime work for employees under his supervision.

C. Correspondence. 1. To sign all correspondence, except correspondence addressed to Members of Congress, relating to the financial assistance program.

2. To sign correspondence addressed to staff members of Congressional Committees.

II. The specific authority delegated in I. B. 1 and I. B. 2 (a) may not be redelegated.

III. All authority delegated herein may be exercised by any SBA employee designated as Acting Deputy Administrator for Financial Assistance.

IV. I reserve unto myself the authority to act on any and all matters involving or relating to financial assistance.

V. A. All previous authority delegated to the Deputy Administrator or Acting Deputy Administrator for Financial Assistance, including the authority delegated by Delegation of Authority No. 10, dated May 4, 1955, and the Delegation of Authority dated July 7, 1955, is hereby rescinded.

B. All previous authority delegated by the Administrator to the Director, Office of Financial Assistance, or the Acting Director, Office of Financial Assistance, including Authority delegated on July 7, 1955, as amended on July 11, 1955, and Delegation of Authority No. 11, dated May 14, 1956, is hereby rescinded.

C. All previous authority delegated by the Administrator to the Chairman, Loan Review Committee, and the Loan Review Committee, including Delegation of Authority No. 11, dated May 14, 1956, is hereby rescinded.

Dated: July 17, 1956.

WENDELL B. BARNES,
Administrator.

[F. R. Doc. 56-6267; Filed, Aug. 3, 1956;
8:47 a. m.]

[Delegation of Authority 10-1]

DIRECTOR, OFFICE OF FINANCIAL
ASSISTANCE

DELEGATION OF AUTHORITY

I. Pursuant to the authority delegated to the Deputy Administrator for Financial Assistance by the Administrator by Delegation of Authority No. 10 (Revision No. 1), dated July 17, 1956, there is hereby redelegated to the Director, Office of Financial Assistance, the authority:

A. General. To carry out all functions listed for the Office of Financial Assistance in section 101 of SBA-100, Administrative Manual.

B. Specific. 1. To approve or decline business and disaster loan applications involving (a) unanimous recommendations by the Loan Review Committee and the Regional Office for declination of the application, and (b) unanimous recommendations by the Loan Review Committee and the Regional Office for the approval of the application.

2. To approve or decline all amendatory actions relating to loans.

3. To accept for processing disaster loan applications received after the expiration of the six months' disaster period.

4. To take the following specific actions relating to the collection of problem loans and loans in liquidation:

(a) Approve charge offs up to \$2,500.
(b) Approve sales and releases of collateral at not less than liquidating values reflected by the latest appraisal of the property.

(c) Approve advances for care and preservation of collateral up to the lesser of \$1,000 or 10 percent of the amount owing on the loan.

(d) Approve expenditures of not to exceed \$500 for appraisals by outside appraisers when and if the services of qualified SBA appraisers are not available.

(e) Authorize the carrying of loans having unpaid balances in excess of \$50,000 in past due statuses.

5. To authorize or approve his travel and the travel of Washington Office employees under his supervision, except travel where actual subsistence expenses are requested.

6. To approve (a) sick and annual leave, (b) leave without pay not in excess of 30 days, and (c) overtime work for employees under his supervision.

C. *Correspondence.* To sign all non-policy-making correspondence, except congressional correspondence, relating to the functions of the Office of Financial Assistance.

II. The specific authorities delegated in I B 1 (a), I B 3, I B 5, I B 6 (b) and (c) and I C may not be redelegated.

III. All authority delegated herein may be exercised by any SBA employee designated as Acting Director, Office of Financial Assistance.

IV. All previous authority delegated to the Director or Acting Director, Office of Financial Assistance, by the Deputy Administrator for Financial Assistance is hereby rescinded.

Dated: July 31, 1956.

W. NORBERT ENGLS,
Deputy Administrator
for Financial Assistance.

[F. R. Doc. 56-6268; Filed, Aug. 3, 1956;
8:47 a. m.]

DEPARTMENT OF LABOR

Wage and Hour Division

LEARNER EMPLOYMENT CERTIFICATES

ISSUANCE TO VARIOUS INDUSTRIES

Notice is hereby given that pursuant to section 14 of the Fair Labor Standards Act of 1938 (52 Stat. 1060, as amended; 29 U. S. C. 201 et seq.), and Parts 522 and 527 of the regulations issued thereunder (29 CFR Parts 522 and 527), special certificates authorizing the employment of learners at hourly wage rates lower than the minimum wage rates applicable under section 6 of the act have been issued to the firms listed below. The employment of learners under these certificates is limited to the terms and conditions therein contained and in subject to the provisions of Parts 522 and 527. The effective and expiration dates, occupations, wage rates, number or proportion of learners and learning periods for certificates issued under general learner regulations (§§ 522.1 to 522.12) are as indicated below; conditions provided in certificates issued under special industry regulations are as established in these regulations.

Apparel Industry Learner Regulations (29 CFR 522.20 to 522.24, as amended March 1, 1956, 21 F. R. 1349).

The following learner certificates were issued authorizing the employment of not more than 10 percent of the total number of factory production workers as learners for normal labor turnover purposes:

Ashland Crafts, Inc., 18th Street and Carter Avenue, Ashland, Ky.; effective 7-19-56 to 7-18-57 (children's dresses).

Blakely Manufacturing Corp., Highway No. 62, Blakely, Ga.; effective 7-4-56 to 7-3-57 (washable service garments).

E. S. Blouse Co., 108-24 Pinegrove Street, Jamaica, N. Y.; effective 7-2-56 to 1-1-57 (cotton blouses).

Colonial Blouse Co., 112 Line Street, Pottsville, Pa.; effective 7-16-56 to 7-15-57 (ladies' blouses).

Colonial Shirt Corp., Woodbury, Tenn.; effective 7-21-56 to 7-20-57 (dress and sport shirts).

B. F. Davis, Garment Co., Inc., 3000-2 Royal Street, New Orleans, La.; effective 7-6-56 to 7-5-57 (work pants, dungarees).

Elena Dress Co., 124 Water Street, Leominster, Mass.; effective 7-6-56 to 7-5-57 (children's dresses and slips).

Elmo Blouse Corp., Palmer Road, Rockwell, N. C.; effective 7-11-56 to 7-10-57 (ladies' cotton work and sport shirts, blouses, etc.).

Evergreen Garment Co., Inc., Pecan Street, Evergreen, Ala.; effective 7-2-56 to 7-1-57 (sport shirts).

Grafton Manufacturing Co., Route No. 4, Riverside Drive, Grafton, W. Va.; effective 7-25-56 to 7-24-57 (ladies' and children's blouses).

Hollywood Corset Co., Athens Mill Building, North Faulk Street, Athens, Tex.; effective 7-16-56 to 7-15-57 (brassieres).

Hunter-Sadler Co., Strauss Street, Tupelo, Miss.; effective 7-16-56 to 7-15-57 (sport shirts).

Huntington Manufacturing Co., Inc., 629 10th Street, Huntington, W. Va.; effective 7-12-56 to 7-11-57 (wash dresses).

Edward Hyman Co., Prentiss, Miss.; effective 7-12-56 to 7-11-57 (washable service apparel).

Industrial Garment Manufacturing Co., 201 East Oak Street, Palestine, Tex.; effective 7-9-56 to 7-8-57 (cotton work clothes).

Jamestown Shirt Corp., Jamestown, Tenn.; effective 7-3-56 to 7-2-57 (sport shirts).

Kenrose Manufacturing Co., Inc., Buchanan, Va.; effective 7-3-56 to 7-2-57 (cotton wash dresses).

Kenrose Manufacturing Co., Inc., Radford, Va.; effective 7-3-56 to 7-2-57 (cotton wash dresses).

Lee Mar of California, 910 South Los Angeles Street, Los Angeles, Calif.; effective 7-5-56 to 7-4-57 (blouses).

Linden Manufacturing Co., Linden, Ala.; effective 7-21-56 to 7-20-57 (dresses).

The Neatform Co., Inc., 641 Sixth Avenue, New York, N. Y.; effective 7-2-56 to 1-1-57 (girdles, garter belts, brassieres).

New England Sportswear Co., 47 Walnut Street, Peabody, Mass.; effective 7-3-56 to 7-2-57 (leather garments).

Pioneer Manufacturing Co., Inc., 83 Waller Street, Wilkes-Barre, Pa.; effective 7-15-56 to 7-14-57 (children's dresses).

Renovo Shirt Co., Inc., Mena, Ark.; effective 7-27-56 to 7-26-57 (sport shirts).

Toby Manufacturing Co., Inc., 620 Franklin Avenue, Essex, Baltimore, Md.; effective 7-28-56 to 7-27-57 (work pants).

Weatherbee Coats, Inc., 461 East Federal Street, Youngstown, Ohio; effective 7-9-56 to 7-8-57 (ladies' rainwear).

West Union Garment Co., Inc., West Union, W. Va.; effective 7-11-56 to 7-10-57 (brassieres, sun halters, peddle pushers).

Whiteville Manufacturing Co., Wilmington Road, Whiteville, N. C.; effective 7-8-56 to 7-7-57 (jeans, jackets and shirts) (replacement certificate).

The following learner certificates were issued for normal labor turnover purposes and, except as otherwise indicated below, a maximum of 10 learners were authorized.

Blue Bell Dress Co., Inc., 33 East Northampton Street, Wilkes-Barre, Pa.; effective 7-9-56 to 7-8-57; 5 learners (ladies' dresses).

David W. Brown Co., 400 Adams Avenue, Woodbine, N. J.; effective 7-5-56 to 7-4-57 (women's blouses).

Elaine Togs, Inc., 808 Driggs Avenue, Brooklyn, N. Y.; effective 7-11-56 to 1-10-57 (children's sportswear).

E & W Manufacturing Co. of Yazoo City, Yazoo City, Miss.; effective 7-21-56 to 7-20-57 (pajamas).

Era's, Inc., Salisbury Drive, Mooresville, N. C.; effective 7-9-56 to 7-8-57 (dusters) (replacement certificate).

H & H Dress Co., Inc., Washington Street, Jermyn, Pa.; effective 7-2-56 to 7-1-57 (dresses).

Hollywood Corset Co., 109 East Commerce Street, Eastland, Tex.; effective 7-25-56 to 7-24-57 (brassieres).

Hollywood Corset Co., East Main Street, Eastland, Tex.; effective 7-12-56 to 7-11-57 (brassieres).

Jeanette's Originals, 4815 Central Avenue, N. W., Albuquerque, N. Mex.; effective 7-5-56 to 7-4-57; 2 learners (ladies' and children's festa dresses).

Kent Uniforms, Inc., Burkesville, Ky.; effective 7-12-56 to 7-11-57; 5 learners (nurses and utility uniforms) (replacement certificates).

Lurrie Pizer Co., 717 North Jeffers, North Platte, Nebr.; effective 7-13-56 to 7-12-57; 5 learners (children's dresses).

Newport Manufacturing Co., Inc., Newport, Vt.; effective 7-9-56 to 7-8-57; 5 learners (women's dresses).

Pamela Creations, 11100 Cumpston Street, North Hollywood, Calif.; effective 7-16-56 to 7-15-57; 2 learners (women's bouffant petticoats).

Rita's Sportswear, 242 North Main Street, Moscow, Pa.; effective 7-22-56 to 7-21-57 (ladies' blouses).

Rowker Manufacturing Co., Inc., West Tioga Street, Tunkhannock, Pa.; effective 7-16-56 to 7-15-57; 5 learners (dresses).

Shrewsbury Manufacturing Co., Inc., 46 East Forest Street, Shrewsbury, Pa.; effective 7-11-56 to 7-10-57; 6 learners (women's and children's sleepwear).

The following learner certificates were issued for plant expansion purposes. The number of learners authorized is indicated:

Alexis, Inc., Gainesville, Ga.; effective 7-10-56 to 1-9-57; 25 learners (infantwear, rainwear).

Blakely Manufacturing Corp., Highway No. 62, Blakely, Ga.; effective 7-4-56 to 1-3-57; 20 learners (washable service garments).

Byrds Manufacturing Corp., Star City, Ark.; effective 3-1-56 to 8-31-56; 50 learners (sport shirts) (replacement certificate).

Byrds Manufacturing Corp., Star City, Ark.; effective 6-25-56 to 12-24-56; 100 additional learners (sport shirts).

E & W Manufacturing Co. of Yazoo City, Yazoo City, Miss.; effective 7-5-56 to 1-4-57; 40 learners (pajamas).

Jamestown Shirt Corp., Jamestown, Tenn.; effective 7-3-56 to 1-2-57; 50 learners (sport shirts).

Myrna Mills, Inc., Adamsville, Tenn.; effective 7-11-56 to 1-10-57; 20 learners (men's and boys' sport shirts).

Sunbright Manufacturing Co., Sunbright, Tenn.; effective 7-9-56 to 1-8-57; learners (sport shirts).

Ray Lee, Inc., 1405 Warford Avenue, Memphis, Tenn.; effective 7-10-56 to 1-9-57;

50 learners (dresses) (supplemental certificate).

Cigar Industry Learner Regulations (29 CFR 522.80 to 522.85, as amended March 1, 1956, 21 F. R. 629).

Heusner Cigar Co., Inc., 228 High Street, Hanover, Pa.; effective 7-5-56 to 2-28-57; 5 learners for normal labor turnover purposes (replacement certificate).

Glove Industry Learner Regulations (29 CFR 522.60 to 522.65, as amended March 1, 1956, 21 F. R. 581).

Portis Style Industries, Inc., 10th and Green Streets, Michigan City, Ind.; effective 7-16-56 to 7-15-57; 10 learners for normal labor turnover purposes (cloth dress gloves).

Star Glove Co., 424 Apperson Way, Kokomo, Ind.; effective 7-17-56 to 1-16-57; 10 learners for plant expansion purposes (work gloves).

Star Glove Co., 424 Apperson Way, Kokomo, Ind.; effective 7-17-56 to 7-16-57; 10 learners for normal labor turnover purposes (work gloves).

Hosiery Industry Learner Regulations (29 CFR 522.40 to 522.43, as amended March 1, 1956, 21 F. R. 629).

The following learner certificates were issued for normal labor turnover purposes, except as otherwise indicated. The number of learners authorized is indicated:

Acca Hosiery Mills, 115½ Young Avenue, Henderson, N. C.; effective 7-9-56 to 7-8-57; 5 learners (seamless).

Dawson Hosiery, Inc., Crawford Drive, Dawson, Ga.; effective 7-16-56 to 7-15-57; 5 learners (full-fashioned).

East Flat Rock Knitting Mill, East Flat Rock, N. C.; effective 7-12-56 to 7-11-57; 5 learners (seamless).

Hollar Hosiery Mills, Inc., 5 First Avenue, NW, Hickory, N. C.; effective 7-6-56 to 7-5-57; 5 learners (seamless).

C. D. Jessup & Co., Claremont, N. C.; effective 7-16-56 to 7-15-57; 5 learners (seamless).

The Nolde & Horst Co., Pittsboro, N. C.; effective 7-9-56 to 8-31-56; 10 learners for plant expansion purposes (seamless) (supplemental certificate).

Strutwear, Inc., 1015 South Sixth Street, Minneapolis, Minn.; effective 7-9-56 to 7-8-57; five percent of factory production workers engaged in the manufacture of hosiery (full-fashioned, seamless).

Unique Knitting Co., Acworth, Ga.; effective 7-16-56 to 7-15-57; 5 percent of factory production workers (seamless).

Van Raalte Co., Inc., Athens, Tenn.; effective 7-9-56 to 7-8-57; 5 percent of factory production workers (full-fashioned).

Wytheville Knitting Mills, Inc., Wytheville, Va.; effective 7-6-56 to 7-5-57; five percent of factory production workers (full-fashioned, seamless).

Independent Telephone Industry Learner Regulations (29 CFR 522.70 to 522.74, as amended March 1, 1956, 21 F. R. 581).

Monroeville Telephone Co., Inc., Monroeville, Ala.; effective 7-12-56 to 7-11-57.

Mountain Home Telephone Co., Inc., 503 Baker Street, Mountain Home, Ark.; effective 7-10-56 to 7-9-57.

Northern Ohio Telephone Co., Attica, Ohio; effective 7-16-56 to 7-15-57.

Northern Ohio Telephone Co., Plymouth, Ohio; effective 7-16-56 to 7-15-57.

Trall County Telephone Co., Hillsboro, N. Dak.; effective 7-12-56 to 7-11-57.

Knitted Wear Industry Learner Regulations (29 CFR 522.30 to 522.35, as amended March 1, 1956, 21 F. R. 581).

The following learner certificates were issued for normal labor turnover pur-

poses. The number of learners authorized is indicated:

Arlene Sportswear Co., 2950 Fulton Street, Brooklyn, N. Y.; effective 7-11-56 to 1-10-57; 3 learners (bathing suits, playsuits, etc.).

Dutchess Underwear Corp., Old Forge, Pa.; effective 7-16-56 to 7-17-57; 5 percent of factory production workers.

International Knitting Mills, 53 Parker Street, Wallingford, Conn.; effective 7-12-56 to 7-11-57; 5 learners (ladies' and boys' sweaters).

Rockwell Manufacturing Corp., St. Paul, Va.; effective 7-16-56 to 7-15-57; 5 percent of factory production workers (ladies' slips).

Wonderknit Corp., Plant No. 1, 120 West Grayson Street, Galax, Va.; effective 7-13-56 to 7-12-57, 5 percent; of factory production workers (knitted shirts).

Shoe Industry Learner Regulations (29 CFR 522.50 to 522.55, as amended March 1, 1956, 21 F. R. 1195).

Dale Footwear, Inc., Landis Street, Coopersburg, Pa.; effective 7-16-56 to 7-15-57; 10 percent of factory production workers for normal labor turnover purposes.

Mercer Shoe Co., Ballinger, Tex.; effective 7-5-56 to 1-4-57; 15 learners for plant expansion purposes.

Mercer Shoe Co., Ballinger, Tex.; effective 7-5-56 to 7-4-57; 10 learners for normal labor turnover purposes.

Regulations Applicable to the Employment of Learners (29 CFR 522.1 to 522.12, as amended February 28, 1955, 20 F. R. 645).

The following learner certificates were issued to the companies listed below manufacturing miscellaneous products. The effective and expiration dates, learner rates, occupations, learning periods, and the number or proportion of learners authorized to be employed are as indicated:

Almont Manufacturing Co., Inc., 36 Whittier Street, Boston, Mass.; effective 7-8-56 to 1-7-57; not less than 90 cents per hour for a maximum of 320 hours, for the occupation of sewing machine operator; authorizing the employment of 4 learners for normal labor turnover purposes (garment bags, blanket bags, etc.).

E. Bonelli & Co., Inc., 602 Broadway, New York, N. Y.; effective 7-6-56 to 1-5-57; not less than 85 cents per hour for the first 280 hours and 90 cents per hour for the remaining 200 hours of the 480-hour learning period, for the occupations of sewing machine operators, finishing operations involving hand sewing, and final pressing; authorizing the employment of five percent of factory production workers for normal labor turnover purposes (men's suits).

Cameron and Co., Inc., 2321 Oak Street, Napa, Calif.; effective 7-16-56 to 1-15-57; not less than 85 cents per hour for the first 280 hours and 90 cents per hour for the remaining 200 hours of the 480-hour learning period, for the occupations of sewing machine operating, final pressing, hand sewing, and finishing operations involving hand sewing; authorizing the employment of 10 learners for expansion purposes in the manufacture of men's sport coats only (men's sport coats) (supplemental certificate).

Chenille Co. of Georgia, 324 Canal Street, New York, N. Y.; effective 7-5-56 to 1-4-57; not less than 85 cents per hour for a maximum of 160 hours, for the occupations of formers and benders; authorizing the employment of 3 learners for normal labor turnover purposes (chenille novelty pinups).

Comack, Inc., 24 Willow Street, Amsterdam, N. Y.; effective 7-2-56 to 12-31-56; not less than 85 cents per hour for a maximum of 160 hours, for the occupations of sock

loopers and sewing machine operators; not less than 85 cents per hour for a maximum of 240 hours, for the occupation of hand sewers; authorizing the employment of 5 learners for normal labor turnover purposes (slipper socks, sock looping).

Deifner Bros., Inc., 121 North Seventh Street, Philadelphia, Pa.; effective 7-5-56 to 1-4-57; not less than 85 cents per hour for the first 280 hours and 90 cents per hour for the remaining 200 hours of the 480-hour learning period, for the occupation of sewing machine operator; authorizing the employment of 4 learners for normal labor turnover purposes (canvas coat fronts).

Dixie Paper Box Co., Inc., Hartsville, Tenn.; effective 7-12-56 to 1-11-57; not less than 85 cents per hour for the first 160 hours and 90 cents per hour for the remaining 80 hours of the 240-hour learning period, for the occupations of basic hand and machine operations with the exception of cutting, scoring and slitting; authorizing the employment of 17 learners for expansion purposes (paper boxes).

El Rita Trimmed Hat Co., 1027 Broadway, Kansas City, Mo.; effective 7-9-56 to 1-8-57; not less than 90 cents per hour for a maximum of 160 hours, for the occupation of hat trimmers; authorizing the employment of 2 learners for normal labor turnover purposes (ladies' hats).

Glen L. Evans, Inc., 506 Paynter Avenue, Caldwell, Idaho; effective 7-2-56 to 12-31-56; not less than 80 cents per hour for the first 240 hours and 85 cents per hour for the remaining 240 hours of the 480-hour learning period, for the occupation of fly tier; authorizing the employment of 10 percent of factory production workers for normal labor turnover purposes (fish flies and cork bugs, etc.).

Goodstein Manufacturing Corp., 10 West 20th Street, New York, N. Y.; effective 7-5-56 to 1-4-57; not less than 85 cents per hour for the first 280 hours and 90 cents per hour for the remaining 200 hours of the 480-hour learning period, for the occupation of sewing machine operator; authorizing the employment of 10 learners for normal labor turnover purposes (topcoats, overcoats, sportcoats).

Grleco Bros., 181 Canal Street, Lawrence, Mass.; effective 7-12-56 to 1-11-57; not less than 90 cents per hour for a maximum of 480 hours, for the occupations of sewing machine operating, final pressing, hand sewing, and finishing operations involving hand sewing; authorizing the employment of 5 percent of factory production workers for normal labor turnover purposes (men's suits, sportcoats, etc.).

Milbridge Canning Corp., Milbridge, Maine; effective 7-6-56 to 1-5-57; not less than 80 cents per hour for the first 80 hours and 85 cents per hour for the remaining 80 hours of the 160-hour learning period, for the occupation of fish packer; authorizing the employment of 10 percent of factory production workers for normal labor turnover purposes (sardine canning).

Mohrville Paper Box Co., Mohrville, Pa.; effective 7-2-56 to 12-31-56; not less than 90 cents per hour for a maximum of 240 hours for the occupations of stripping and topping; authorizing the employment of 2 learners for normal labor turnover purposes (set-up paper boxes).

Muscatine Pearl Works, Muscatine, Iowa; effective 7-6-56 to 1-5-57; not less than 85 cents per hour for the first 320 hours and 90 cents per hour for the remaining 160 hours of the 480-hour learning period, for the occupation of finished button sorter; authorizing the employment of 3 learners for normal labor turnover purposes (pearl buttons).

Rawlings Manufacturing Co., Willow Springs Division, Willow Springs, Mo.; effective 7-15-56 to 1-14-57; not less than 85 cents per hour for the first 160 hours and 90 cents per hour for the remaining 160

hours of the 320-hour learning period, for the occupations of sewing machine operator and hand leather cutter; not less than 85 cents per hour for the first 160 hours and 90 cents per hour for the remaining 240 hours of the 400-hour learning period, for the occupation of hand stitching of baseballs and softballs; not less than 85 cents per hour for a maximum of 160 hours, for the occupation of die and clicker machine operator; authorizing the employment of 50 learners for expansion purposes (athletic equipment).

Redwood City Knitting Mills, 120 Wilson Street, Redwood City, Calif.; effective 7-12-56 to 1-11-57; not less than 85 cents per hour for a maximum of 160 hours, for the occupation of hand embroiderer; authorizing the employment of 2 learners for normal labor turnover purposes (hand embroidery on sweaters).

Southern Tailoring Co., Inc., 301 Tchoupitoulas Street, New Orleans, La.; effective 7-16-56 to 1-15-57; not less than 85 cents per hour for a maximum of 280 hours, for the occupations of sewing machine operating, hand sewers, and finishing operations involving hand sewing; authorizing the employment of 5 learners for normal labor turnover purposes (coats and pants).

Tiedright Tie Co., Asheboro, N. C.; effective 7-15-56 to 1-14-57; not less than 85 cents per hour for the first 160 hours and 90 cents per hour for the remaining 160 hours of the 320-hour learning period for the occupations of sewing machine operator, presser, and hand sewing; authorizing the employment of 5 learners for normal labor turnover purposes (men's and boys' ties).

The following special learner certificate was issued in Puerto Rico to the company hereinafter named. The effective and expiration dates, learner rates, occupations, learning periods, and the number or proportion of learners authorized to be employed, are as indicated:

Finetex, Inc., Gurabo Road, Km. 5.9, Gurabo, P. R.; effective 6-25-56 to 12-24-56; not less than 38 cents per hour for the first 240 hours and 44 cents per hour for the remaining 240 hours of the 480-hour learning period, for the occupations of knitting, machine stitching, hand sewing operations, and machine pressing; authorizing the employment of 26 learners for expansion purposes (sweaters).

Regulations Applicable to the Employment of Student-Workers (29 CFR 527.1 to 527.9, October 14, 1955, 20 F. R. 7737).

Upper Columbia Academy, Spangle, Wash.; effective 7-9-56 to 8-31-56; not less than 80 cents per hour for the first 375 hours and 85 cents per hour for the remaining 375 hours of the 750-hour learning period, for the occupations of basic skilled and semi-skilled hand and machine woodworking and upholstering occupations; authorizing the employment of 52 learners (upholstered furniture).

Each certificate has been issued upon the employer's representation that employment of learners at subminimum rates is necessary in order to prevent curtailment of opportunities for employment, and that experienced workers for the learner occupations are not available. The certificates may be cancelled in the manner provided in the regulations and as indicated in the certificates. Any person aggrieved by the issuance of any of these certificates may seek a review or reconsideration thereof within fifteen days after publication of this notice in the FEDERAL REGISTER pursuant to the provisions of Part 522.

Signed at Washington, D. C., this 20th day of July 1956.

MILTON BROOKE,
Authorized Representative
of the Administrator.

[F. R. Doc. 56-6257; Filed, Aug. 3, 1956; 8:45 a. m.]

LEARNER EMPLOYMENT CERTIFICATES ISSUANCE TO VARIOUS INDUSTRIES

Notice is hereby given that pursuant to section 14 of the Fair Labor Standards Act of 1938 (52 Stat. 1060, as amended; 29 U. S. C. 201 et seq.), and Part 522 of the regulations issued thereunder (29 CFR Part 522), special certificates authorizing the employment of learners at hourly wage rates lower than the minimum wage rates applicable under section 6 of the act have been issued to the firms listed below. The employment of learners under these certificates is limited to the terms and conditions therein contained and is subject to the provisions of Part 522. The effective and expiration dates, occupations, wage rates, number or proportion of learners and learning periods for certificates issued under general learner regulations (§§ 522.1 to 522.12) are as indicated below; conditions provided in certificates issued under special industry regulations are as established in these regulations.

Apparel Industry Learner Regulations (29 CFR 522.20 to 522.24, as amended March 1, 1956, 21 F. R. 1349).

The following learner certificates were issued authorizing the employment of not more than 10 percent of the total number of factory production workers as learners for normal labor turnover purposes:

All American Knitters, Inc., 57 Thames Street, Brooklyn, N. Y.; effective 7-23-56 to 1-22-57 (knitted outerwear).

Bannon Mills, Inc., Seventh and Union Streets, Lebanon, Pa.; effective 7-18-56 to 7-17-57 (infants' and children's knit goods).

Carolina Underwear Co., Inc., West Guilford Street, Thomasville, N. C.; effective 7-30-56 to 9-9-56 (children's and ladies' panties) (replacement certificate).

Morris Freezer & Co., Inc., Wytheville, Va.; effective 7-19-56 to 7-18-57 (boys' woven shirts).

Lanier Manufacturing Co., 112 Russell Street, Easley, S. C.; effective 7-19-56 to 7-18-57 (men's sport shirts).

R & G Shirt Corp., Parksley, Va.; effective 7-28-56 to 7-27-57 (sport shirts).

Tic Tac Co., Inc., Dickey Creek Road, R. F. D. 2, Camden, S. C.; effective 7-18-56 to 7-17-57 (children's outerwear).

Wildwood Clothing Co., Inc., 112 East Schellenger Avenue, Wildwood, N. J.; effective 7-20-56 to 7-19-57 (ladies' bermuda shorts) (replacement certificate).

Wildwood Clothing Co., Inc., 112 East Schellenger Avenue, Wildwood, N. J.; effective 7-20-56 to 7-19-57 (men's pants) (replacement certificate).

Wythe Shirt Corp., Wytheville, Va.; effective 7-19-56 to 7-18-57 (shirts).

The following learner certificates were issued for normal labor turnover purposes, authorizing the employment of not more than 5 learners.

Carleen Sportswear, 409 Bon View Avenue, Ontario, Calif.; effective 7-23-56 to 7-22-57 (leather and suede garments).

Lorraine Manufacturing Co., 1716 Washington Avenue, Northampton, Pa.; effective 7-20-56 to 7-19-57; learners may not be engaged at special minimum wage rates in the production of ladies' and children's suits (ladies' and children's dresses).

McCormick Manufacturing Co., 373 West Ogden Street, Girardville, Pa.; effective 7-17-56 to 7-16-57 (women's and children's blouses).

Skyline Manufacturing Co., Inc., Factory No. 2, Stone Ridge, N. Y.; effective 7-20-56 to 7-19-57 (children's jackets).

The following learner certificates were issued for plant expansion purposes. The number of learners authorized is indicated:

Donlin Sportswear, Inc., New Tazewell, Tenn.; effective 7-18-56 to 1-17-57; 10 learners (sport shirts).

Maury Manufacturing Co., Inc., Mount Pleasant, Tenn.; effective 7-25-56 to 1-24-57; 100 learners (sport shirts).

Glove Industry Learner Regulations (29 CFR 522.60 to 522.65, as amended March 1, 1956, 21 F. R. 581).

Indianapolis Glove Co., Inc., Houlika, Miss.; effective 7-25-56 to 7-24-57; 10 learners for normal labor turnover purposes (cotton work gloves).

Indianapolis Glove Co., Inc., Indianapolis, Ind.; effective 7-25-56 to 7-24-57; 10 percent of factory production workers engaged in the authorized learner occupations (jersey and cotton flannel work gloves).

Indianapolis Glove Co., Inc., Marion, Ind.; effective 7-25-56 to 7-24-57; 10 learners for normal labor turnover purposes (leather and cotton work gloves).

Indianapolis Glove Co., Inc., Richmond, Ind.; effective 7-25-56 to 7-24-57; 10 learners for normal labor turnover purposes (work gloves).

Hosiery Industry Learner Regulations (29 CFR 522.40 to 522.43, as amended March 1, 1956, 21 F. R. 629).

W. T. Brittain Hosiery Mill, East Flat Rock, N. C.; effective 7-18-56 to 7-17-57; 5 learners for normal labor turnover purposes (seamless).

Broadway Hosiery Mills, 53 Burton Street, West Asheville, N. C.; effective 7-19-56 to 7-18-57; 5 percent of factory production workers for normal labor turnover purposes (seamless).

Broadway Hosiery Mills, 53 Burton Street, West Asheville, N. C.; effective 7-19-56 to 1-18-57; 20 learners for plant expansion purposes (seamless).

Spalding Knitting Mills, East Broad Street, Griffin, Ga.; effective 7-20-56 to 7-19-57; 5 percent of factory production workers for normal labor turnover purposes (seamless).

Independent Telephone Industry Learner Regulations (29 CFR 522.70 to 522.74, as amended March 1, 1956, 21 F. R. 581).

Manawa Telephone Co., Manawa, Wis.; effective 7-24-56 to 7-23-57.

Knitted Wear Industry Learner Regulations (29 CFR 522.30 to 522.35, as amended March 1, 1956, 21 F. R. 581).

Carolina Underwear Co., Inc., Forsyth Division, Forsyth Street, Thomasville, N. C.; effective 7-30-56 to 9-30-56; 5 learners for normal labor turnover purposes (women's, misses' and children's panties) (replacement certificate).

Carolina Underwear Co., Inc., West Guilford Street, Thomasville, N. C.; effective 7-30-56 to 9-9-56; 5 percent of factory production workers engaged in the production of men's and boys' shorts and ladies' and misses' panties for normal labor turnover

purposes (men's and boys' shorts) (replacement certificate).

Marion Rohr Corp., 18 North Main street, Hornell, N. Y.; effective 7-19-56 to 1-18-57; 30 learners for plant expansion purposes (ladies' underwear).

Marion Rohr Corp., 18 North Main Street, Hornell, N. Y.; effective 7-19-56 to 7-18-57; 5 learners for normal labor turnover purposes (ladies' underwear).

Shoe Industry Learner Regulations (29 CFR 522.50 to 522.55, as amended March 1, 1956, 21 F. R. 1195).

Adams Bros., Inc., Catamount Street, Pittsfield, N. H.; effective 7-18-56 to 7-17-57; 10 percent of factory production workers for normal labor turnover purposes.

Beacon Shoe Co., Jonesburg, Mo.; effective 7-23-56 to 7-22-57; 10 percent of factory production workers for normal labor turnover purposes.

Paston Boot & Shoe Co., 410 North 23d Street, St. Louis, Mo.; effective 7-23-56 to 7-22-57; 10 percent of factory production workers for normal labor turnover purposes.

Hamilton Shoe Co., 2107 Lucas Avenue, St. Louis, Mo.; effective 7-20-56 to 7-19-57; 10 percent of factory production workers for normal labor turnover purposes.

Tru-Stitch Moccasin Corp., 40 Duane Street, Malone, N. Y.; effective 7-18-56 to 4-18-57; 10 percent of factory production workers for normal labor turnover purposes (replacement certificate).

Regulations applicable to the Employment of Learners (29 CFR 522.1 to 522.12, as amended February 28, 1955, 20 F. R. 645).

The following learner certificates were issued to the companies listed below manufacturing miscellaneous products. The effective and expiration dates, learner rates, occupations, learning periods, and the number or proportion of learners authorized to be employed, are as indicated:

Chunky Chocolate Corp., 655 Dean Street, Brooklyn, N. Y.; effective 7-23-56 to 1-22-57; not less than 80 cents per hour for the first 160 hours and 85 cents per hour for the remaining 80 hours of the 240-hour learning period, for the occupations of feeders and machine tenders; authorizing the employment of 10 learners for normal labor turnover purposes (confectionery).

Chunky Chocolate Corp., 200 Delancey Street, New York, N. Y.; effective 7-23-56 to 1-22-57; not less than 80 cents per hour for the first 160 hours and 85 cents per hour for the remaining 80 hours of the 240-hour learning period, for the occupations of feeders and machine tenders; authorizing the employment of 5 learners for normal labor turnover purposes (confectionery).

Ma-Lock Woodcrafts, Highway 74, Wingate, N. C.; effective 7-19-56 to 1-18-57; not less than 80 cents per hour for the first 320 hours and 85 cents per hour for the remaining 160 hours of the 480-hour learning period, for the occupations of basic all around training as sawyers (rip, band, and jig), shaper operators, lathe operators, drill operators, sanders, construction and painters; authorizing the employment of 5 learners for normal labor turnover purposes (old pine decorator items and accessories).

The following special learner certificate was issued in Puerto Rico to the company hereinafter named. The effective and expiration dates, learner rates, occupations, learning periods, and the number or proportion of learners authorized to be employed, are as indicated:

Raymo Zipper, Inc., Ave. Condado 657, Santurce, P. R.; effective 7-11-56 to 1-10-57; not less than 50 cents per hour for a maximum of 240 hours, for the occupations of cutting and attaching; authorizing the employment of 4 learners for normal labor turnover purposes (zippers).

Each certificate has been issued upon the employer's representation that employment of learners at subminimum rates is necessary in order to prevent curtailment of opportunities for employment, and that experienced workers for the learner occupations are not available. The certificates may be cancelled in the manner provided in the regulations and as indicated in the certificates. Any person aggrieved by the issuance of any of these certificates may seek a review or reconsideration thereof within fifteen days after publication of this notice in the FEDERAL REGISTER pursuant to the provisions of Part 522.

Signed at Washington, D. C., this 26th day of July 1956.

MILTON BROOKE,
Authorized Representative
of the Administrator.

[F. R. Doc. 56-6258; Filed, Aug. 3, 1956;
8:45 a. m.]

INTERSTATE COMMERCE COMMISSION

FOURTH SECTION APPLICATIONS FOR RELIEF

AUGUST 1, 1956.

Protests to the granting of an application must be prepared in accordance with Rule 40 of the general rules of practice (49 CFR 1.40) and filed within 15 days from the date of publication of this notice in the FEDERAL REGISTER.

LONG-AND-SHORT HAUL

FSA No. 32453: *Perlite mix—Socorro, N. Mex., to Western Points.* Filed by F. C. Kratzmeir, Agent, for interested rail carriers. Rates on perlite mix, consisting of a mixture of refuse perlite rock fines and expanded perlite rock, carloads, from Socorro, N. Mex., to specified points in Colorado, Nebraska, South Dakota and Wyoming.

Grounds for relief: Circuitous routes. Tariff: Supplement 12 to Agent Kratzmeir's I. C. C. 4157.

FSA No. 32454: *Soda ash—Louisiana and Texas to Gulfport, Miss.* Filed by F. C. Kratzmeir, Agent, for interested rail carriers. Rates on soda ash (other than modified), carloads, from Lake Charles and West Lake Charles, La., Corpus Christi, and Velasco, Tex., to Gulfport, Miss.

Grounds for relief: Circuitous routes. Tariffs: Supplement 161 to Agent Kratzmeir's I. C. C. 4087; Supplement 225 to Agent Kratzmeir's I. C. C. 4139.

FSA No. 32455: *Superphosphate—South to Gowrie and Toledo, Iowa.* Filed by O. W. South, Jr., Agent, for interested rail carriers. Rates on superphosphate, carloads from specified points in southern territory to Gowrie and Toledo, Iowa.

Grounds for relief: Short-line distance formula and circuitous routes.

Tariff: Supplement 17 to Agent Spaninger's I. C. C. 1522.

FSA No. 32456: *Petroleum coke—St. Louis-East St. Louis Group to Listerhill, Ala.* Filed by O. W. South, Jr., Agent, for interested rail carriers. Rates on petroleum coke, carloads, from St. Louis, Mo., East St. Louis, Federal, Roxana, and Wood River, Ill., to Listerhill, Ala.

Grounds for relief: Short-line distance formula.

Tariff: Supplement 295 to Agent Spaninger's I. C. C. 1062.

FSA No. 32457: *Substituted service—motor-rail-motor—Pa. R. R.* Filed by Kenosha Auto Transport Corporation, Agent, for itself and the Pennsylvania Railroad Company. Rates on freight loaded in highway trailers and transported on railroad flat cars from Kenosha, Wis., to Kearny, N. J.

Ground for relief: Motor truck competition.

FSA No. 32458: *Iron and steel articles—Illinois Territory to New Orleans, La.* Filed by R. G. Raasch, Agent, for interested rail carriers. Rates on iron and steel articles, carloads, from points in Illinois territory to New Orleans, La.

Grounds for relief: Circuitous routes via Kansas City, Mo., transit point.

Tariff: Supplement 2 to Agent Raasch's tariff I. C. C. 854.

FSA No. 32459: *Boot and shoe findings—Winchester, Va., to San Francisco, Calif.* Filed by Pan-Atlantic Steamship Corporation, for itself and on behalf of the Weyerhaeuser Steamship Company. Rates on counters, heels, soles, soling, or taps, carloads, from Winchester, Va., on rail carriers to San Francisco, Calif., via Port of Baltimore, Md.

Grounds for relief: Competition with rail carriers.

Tariff: Twenty-first revised page No. 272 to Pan Atlantic Steamship Corporation tariff I. C. C. No. 1.

FSA No. 32460: *Crushed stone and gravel—Illinois and Indiana to Kingsbury, Ind.* Filed by H. R. Hinsch, Agent, for interested rail carriers. Rates on crushed stone and gravel, carloads from Chicago, Ill., and other specified points in Illinois, also Whiting, Ind., to Kingsbury, Ind.

Grounds for relief: Truck competition from competing wayside producing points in Indiana and circuitous routes.

Tariffs: Supplement 38 to Agent Hinsch's tariff I. C. C. 4480 and two other tariffs.

FSA No. 32461: *Slack coal—Western Mines to Iowa and Nebraska.* Filed by W. J. Christie, Agent, for interested rail carriers. Rates on bituminous slack coal, carloads from Origin mines in Colorado, New Mexico, Utah, and Wyoming to specified points in Iowa and Nebraska.

Grounds for relief: Market competition and circuitry.

Tariff: Supplement 23 to Agent Christie's tariff I. C. C. 54.

FSA No. 32462: *Rough rice—New Orleans, La., to Memphis, Tenn.* Filed by F. C. Kratzmeir, Agent, for interested rail carriers. Rates on rough rice, carloads from New Orleans, La., to Memphis, Tenn.

Grounds for relief: Circuitous routes in part west of the Mississippi River.

FSA No. 32463; *Latex—Dundee, N. J., to Alabama, Louisiana, and Tennessee.* Filed by F. C. Kratzmeir, Agent, for interested rail carriers. Rates on latex (liquid crude rubber), natural or synthetic, tank-car loads from Dundee, N. J., to specified points in Alabama, Louisiana, and Tennessee.

Grounds for relief: Circuitous routes in part west of the Mississippi River.

By the Commission.

[SEAL] HAROLD D. MCCOY,
Secretary.

[F. R. Doc. 56-6281; Filed, Aug. 3, 1956;
8:50 a. m.]

DEPARTMENT OF AGRICULTURE

Rural Electrification Administration

[Administrative Order T-860]

ILLINOIS

LOAN ANNOUNCEMENT

JULY 5, 1956.

Pursuant to the provisions of the Rural Electrification Act of 1936, as amended, a loan contract bearing the following designation has been signed on behalf of the Government acting through the Administrator of the Rural Electrification Administration:

Loan designation:	Amount
Northern Illinois Telephone Company, Illinois 546-A	
Northern.....	\$1,606,000

¹ Simultaneous allocation and loan.

[SEAL] FRED H. STRONG,
Acting Administrator.

[F. R. Doc. 56-6293; Filed, Aug. 3, 1956;
8:52 a. m.]

[Administrative Order T-861]

KANSAS

LOAN ANNOUNCEMENT

JULY 5, 1956.

Pursuant to the provisions of the Rural Electrification Act of 1936, as amended, a loan contract bearing the following designation has been signed on behalf of the Government acting through the Administrator of the Rural Electrification Administration:

Loan designation:	Amount
Northern Kans. Telephone Co., Kansas 554-B Northern.....	\$264,000

[SEAL] FRED H. STRONG,
Acting Administrator.

[F. R. Doc. 56-6294; Filed, Aug. 3, 1956;
8:52 a. m.]

[Administrative Order T-862]

GEORGIA

LOAN ANNOUNCEMENT

JULY 10, 1956.

Pursuant to the provisions of the Rural Electrification Act of 1936, as amended, a loan contract bearing the following designation has been signed on behalf of the Government acting through the Administrator of the Rural Electrification Administration:

Loan designation:	Amount
Byron Telephone Company, Inc., Georgia 557-A Byron.....	\$191,000

¹ Simultaneous allocation and loan.

[SEAL] FRED H. STRONG,
Acting Administrator.

[F. R. Doc. 56-6295; Filed, Aug. 3, 1956;
8:52 a. m.]

[Administrative Order T-863]

WYOMING

LOAN ANNOUNCEMENT

JULY 11, 1956.

Pursuant to the provisions of the Rural Electrification Act of 1936, as amended, a loan contract bearing the following designation has been signed on behalf of the Government acting through the Administrator of the Rural Electrification Administration:

Loan designation:	Amount
Tri-County Telephone Association, Inc., Wyoming 508-C Tri-County.....	\$39,000

[SEAL] FRED H. STRONG,
Acting Administrator.

[F. R. Doc. 56-6296; Filed, Aug. 3, 1956;
8:52 a. m.]

[Administrative Order T-864]

KENTUCKY

LOAN ANNOUNCEMENT

JULY 13, 1956.

Pursuant to the provisions of the Rural Electrification Act of 1936, as amended, a loan contract bearing the following designation has been signed on behalf of the Government acting through the Administrator of the Rural Electrification Administration:

Loan designation:	Amount
Peoples Rural Telephone Cooperative Corporation, Inc., Kentucky 514-C Peoples.....	\$326,000

[SEAL] FRED H. STRONG,
Acting Administrator.

[F. R. Doc. 56-6297; Filed, Aug. 3, 1956;
8:52 a. m.]

[Administrative Order T-865]

NORTH CAROLINA

LOAN ANNOUNCEMENT

JULY 17, 1956.

Pursuant to the provisions of the Rural Electrification Act of 1936, as amended, a loan contract bearing the following designation has been signed on behalf of the Government acting through the Administrator of the Rural Electrification Administration:

Loan designation:	Amount
Pinebluff Telephone Company, Inc., North Carolina 533-A Pinebluff.....	\$132,000

¹ Simultaneous allocation and loan.

[SEAL] DAVID A. HAMIL,
Administrator.

[F. R. Doc. 56-6298; Filed, Aug. 3, 1956;
8:52 a. m.]

[Administrative Order T-866]

SOUTH DAKOTA

LOAN ANNOUNCEMENT

JULY 18, 1956.

Pursuant to the provisions of the Rural Electrification Act of 1936, as amended, a loan contract bearing the following designation has been signed on behalf of the Government acting through the Administrator of the Rural Electrification Administration:

Loan designation:	Amount
Deuel Telephone Cooperative Association, South Dakota 521-C Deuel.....	\$852,000

[SEAL] FRED H. STRONG,
Acting Administrator.

[F. R. Doc. 56-6299; Filed, Aug. 3, 1956;
8:52 a. m.]

[Administrative Order T-867]

WEST VIRGINIA

LOAN ANNOUNCEMENT

JULY 19, 1956.

Pursuant to the provisions of the Rural Electrification Act of 1936, as amended, a loan contract bearing the following designation has been signed on behalf of the Government acting through the Administrator of the Rural Electrification Administration:

Loan designation:	Amount
West Side Telephone Company, West Virginia 507-A West Side.....	\$148,000

¹ Simultaneous allocation and loan.

[SEAL] FRED H. STRONG,
Acting Administrator.

[F. R. Doc. 56-6300; Filed, Aug. 3, 1956;
8:52 a. m.]

[Administrative Order T-868]

MINNESOTA

LOAN ANNOUNCEMENT

JULY 20, 1956.

Pursuant to the provisions of the Rural Electrification Act of 1936, as amended, a loan contract bearing the following designation has been signed on behalf of the Government acting through the Administrator of the Rural Electrification Administration:

Loan designation:	Amount
Wendell Telephone Company, Minnesota 578-A Wendell.....	\$332,000

¹ Simultaneous allocation and loan.

[SEAL] FRED H. STRONG,
Acting Administrator.

[F. R. Doc. 56-6301; Filed, Aug. 3, 1956;
8:52 a. m.]

[Administrative Order T-869]

IOWA

LOAN ANNOUNCEMENT

JULY 24, 1956.

Pursuant to the provisions of the Rural Electrification Act of 1936, as amended,

a loan contract bearing the following designation has been signed on behalf of the Government acting through the Administrator of the Rural Electrification Administration:

Loan designation:	Amount
Wilton Telephone Company, Iowa 542-A Wilton Junction.....	\$254,000

* Simultaneous allocation and loan.

[SEAL] FRED H. STRONG,
Acting Administrator.

[F. R. Doc. 56-6302; Filed, Aug. 3, 1956;
8:53 a. m.]

[Administrative Order T-870]

KANSAS

LOAN ANNOUNCEMENT

JULY 24, 1956.

Pursuant to the provisions of the Rural Electrification Act of 1936, as amended, a loan contract bearing the following designation has been signed on behalf of the Government acting through the Administrator of the Rural Electrification Administration:

Loan designation:	Amount
Carter Telephone Company, Inc., Kansas 557-A Carter.....	\$432,000

* Simultaneous allocation and loan.

[SEAL] FRED H. STRONG,
Acting Administrator.

[F. R. Doc. 56-6303; Filed, Aug. 3, 1956;
8:53 a. m.]

DEPARTMENT OF JUSTICE

Office of Alien Property

JOHANNES EVALD TANG KRISTENSEN

NOTICE OF INTENTION TO RETURN VESTED PROPERTY

Pursuant to section 32 (f) of the Trading With the Enemy Act, as amended, notice is hereby given of intention to return, on or after 30 days from the date of publication hereof, the following property located in Washington, D. C., including all royalties accrued thereunder and all damages and profits recoverable for past infringement thereof, after adequate provision for taxes and conservatory expenses:

Claimant, Claim No., and Property

Johannes Evald Tang Kristensen, A. C. Jacobsensveg 16, Norresundby, Denmark; Claim No. 61111; \$111.83 in the Treasury of the United States. All right, title, interest and claim of whatsoever kind or nature in and to every copyright, claim of copyright, license, agreement, privilege and power, and every right of whatsoever nature, including, but not limited to all monies and amounts by way of royalties, share of profits or other emolument, and all causes of action accrued or to accrue relating to the compositions entitled "Lord Peter's Stableboy" and "The Nightingale and the Two Sisters", movements from "Danish Folk-Music Suite" by Percy Aldridge Grainger, as listed in Exhibit A of Vesting Order No. 4031 (9 F. R. 1633, February 11, 1944), to the extent owned by the claimant, Johannes Evald Tang Kristensen, immediately prior to the vesting thereof by Vesting Order No. 4031.

Executed at Washington, D. C., on July 26, 1956.

For the Attorney General.

[SEAL]

PAUL V. MYRON,
Deputy Director,
Office of Alien Property.

[F. R. Doc. 56-6287; Filed, Aug. 3, 1956;
8:51 a. m.]

ALICE FOEHR

NOTICE OF INTENTION TO RETURN VESTED PROPERTY

Pursuant to section 32 (f) of the Trading With the Enemy Act, as amended, notice is hereby given of intention to return, on or after 30 days from the date of publication hereof, the following property, subject to any increase or decrease resulting from the administration thereof prior to return, and after adequate provision for taxes and conservatory expenses:

Claimant, Claim No., Property, and Location

Alice Foehr, Stuttgart, Germany; Claim No. 39388; Cash in the Treasury of the United States; \$5,000.00.

Executed at Washington, D. C., on July 30, 1955.

For the Attorney General.

[SEAL]

PAUL V. MYRON,
Deputy Director,
Office of Alien Property.

[F. R. Doc. 56-6288; Filed, Aug. 3, 1956;
8:51 a. m.]

